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SA DA BANDEIRA

SLAVE TRADE AND LORD  
PALMERSTON'S BILL

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THE  
SLAVE TRADE,  
AND  
LORD PALMERSTON'S BILL:

BY THE  
VISCOUNT DE SA DA BANDEIRA,

*Ex-Secretary of State for Foreign Affairs.*

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"PALMAM QUI MERUIT FERAT."

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\* \* In the Portuguese Copy, from which the present Translation was made, a few slight corrections had been introduced by the Author.



Livraria Camões

R. da Misericórdia, 137-141

Telef. 327272

Lisboa - 2 — Portugal

N.º

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1840.



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## SECTION I.

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THE adoption by the British Parliament of a *Bill*, authorising certain British ships to capture in all the seas all vessels sailing under the Portuguese flag, which shall engage, or be suspected of engaging, in the Slave Trade; and that the persons and property of the Portuguese found therein shall be subject to the jurisdiction of British tribunals, being a new feature in the transactions between nations, and an act of usurpation on the part of the British Government of the sovereign rights of a nation independent of the Crown of Great Britain,—has excited the attention of Europe, and much more particularly that of Portugal.

As Lord Palmerston, the British Minister for Foreign Affairs, alleged in support of that measure (which was his own proposition) the non-fulfilment of Treaties by Portugal, and as I was one of the Ministers for Foreign Affairs with whom the negotiations took place for the renewal and extension of the existing Treaties for the suppression of the Slave Trade, I consider it incumbent upon me to make an exposition of what took place, during the period I was in office, relative to those negotiations.

I shall also analyse the assertions contained in the speech delivered by the noble Secretary of State, in Parliament, on the occasion in question; and I hope to show, on the fullest evidence, that the reasons which are alleged in favour of the Bill are totally without foundation.

As a correct understanding of this affair depends on the reading and comparing of many documents, and is therefore possessed by few persons, the explanations upon which I am about to enter, may prove useful to whosoever wishes to form a right judgment on the question.

The noble Lord made use in his speeches of expressions highly injurious to Portugal and her government, and some of his colleagues followed his example. It would be easy to retort upon them with interest. They are welcome, however, to all the glory which such a course is calculated to reflect upon them.

A simple exposition of the facts, in their chronological order,—rendered necessary by the noble Secretary of State having founded many of his arguments on wilful anachronisms,—will reduce those insults to their true value—the expression of a consciousness of injustice.

In order to understand more clearly what is said respecting Portugal, it will be convenient to devote a few lines to a review of what has been done for the abolition of the Slave Trade. More than

half a century has elapsed since the abolition of this trade was first proposed in the Parliament of Great Britain. Thirty two years have passed since it was made unlawful for the subjects of Great Britain to engage in it, and in the present day Slavery is abolished in all the dominions of that Crown. Nearly 800,000 slaves were declared free, £20,000,000 sterling being paid to their owners in compensation.

The perseverance with which the people and Parliament of Great Britain have prosecuted this great measure, so essential to the civilization of Africa,—the ardent desire manifested by individuals of all classes, in favour of the negroes,—the generosity with which they voted that enormous sum to rescue them from captivity, are extraordinary facts, and worthy of the admiration of all who feel an interest in advancing the civilization of the human race.

It is not just, however, in the British Ministers to estimate the opinion which exists in other countries with respect to the morality of the Slave Trade, by the same standard which they apply to that which has been formed in England on the same subject, after half a century of debates; while in those countries the point has never been discussed. It will be fair to keep in mind the different circumstances of each state, when expecting arguments to be attended to in favour of the great measure of the abolition of Slavery, or of the Slave Trade; and it would be prudent in those who advance those arguments, to take care that they do not give reason to suspect them of being actuated by interested motives.

In order effectually to accomplish the total abolition of the Slave Trade, it is necessary that all the Maritime States, and all those in which Slavery exists, should combine for its suppression. This can be accomplished only—

1. When every Power, without exception, shall prohibit the vessels using its flag, to carry slaves, and shall, at the same time, permit the ships of war of other nations to search its merchant vessels.
2. When every nation, in which Slavery exists, shall decree its abolition.

On an investigation of what has taken place in connection with this subject, it will be found that Portugal was the first Christian Power which abolished Negro Slavery in its Colonies: this was decreed with respect to the Island of Madeira and the Azores, (1) by King Don José, in 1773; and it is not a little remarkable that this occurred at the very time when the British Government was refusing its sanction to the numerous acts of the legislature of its Colony of Virginia, tending to the suppression in the said Colony of the traffic in slaves.

In 1780, Pennsylvania made a law for the gradual abolition of

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(1.) *Vide Alvarás of September 19, 1761, February 26, 1771, and January 16, 1773.*



Slavery in that State; and the example was successively followed by other northern States of the American Union. The National Convention of France decreed the immediate abolition of Slavery in the Colonies. This was followed by the assassination of the whites by the negroes in the Island of St. Domingo, a civil war in the French Antilles, and the non-execution of the decree in Bourbon and the Isle of France; even at the present day, Slavery exists in the French Colonies.

In 1804, The Slave Trade was abolished in the Colonies of Denmark, in pursuance of a law to that effect, made in 1794.

In 1807, it was abolished by the United States and by Great Britain; nevertheless, it continued to be carried on ten years after in the British Colony, the Mauritius. (1)

In 1821, the Republic of Colombia decreed the gradual abolition of Slavery. That law, however, has been annulled by the States into which Colombia has since been divided; and a similar fate has attended the laws passed in other parts of what formerly constituted Spanish America.

It was in the year 1838 that the complete emancipation of the negroes took effect in the British Colonies;—that is, *sixty-five years* after a King of Portugal had decreed it for his Colonies of Madeira and the Azores, in which, for many years, there have been no slaves.

No other Power in the possession of Colonies has abolished Negro Slavery in them. By nearly, if not quite all, the independent States of America, from the Potomac to the Rio Plata, it is still continued, and in many of them even, in which the importation of slaves is prohibited, this is still carried on, however illegally, to a greater or lesser extent, according to the demand for labour.

So long as there are people who are willing to purchase slaves, so long will there be others who will fetch them from Africa for sale; and as America continues to increase in prosperity, so will the necessity become more urgent for a supply of labour, thereby augmenting the importation of slaves: all the navies of the world united would not suffice to blockade the thousands of miles of the coast of Africa, and the like extent of the coast of America, along which, at the present time, slaves are embarked and landed.

Doubtless many slavers will be captured by the cruisers, and the hazard of the trade be thus increased; this will raise the premium of insurance, and, consequently, the price of slaves; but from this very cause, those adventures which succeed will yield enormous profits, and these will stimulate the contraband trader to encounter still greater risks. This is what has actually occurred in some cities of America. In Havanna, for instance, where in 1838, according to the papers laid before Parliament by Lord Palmerston, a French

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(1.) *Fowell Buxton.—The African Slave Trade*, 8<sup>o</sup>. Vol. 1839, pp. 119—186.

house realized by one voyage a net gain of 70,000 Dollars; and other adventurers gained, by a single vessel, whose voyage scarcely extended to four months, the sum of 200,000 Dollars, free of all expenses!

All smuggling increases in a direct ratio with the profit to be made by it; and the extent to which it is carried on on the coast of England, shows the inefficiency of prohibitions, even when backed by a large force by land and sea. Now, a cargo of slaves is, of all others, the one which when landed, is most easy to save, from the facility of its removal from the point of danger. A blockade of the coast could not put an end to the trade, even were there very many more ships employed in it than it would be possible so to employ, and that the greatest vigilance was practised by them. Could the British Admirals, who had under their orders numerous squadrons, for the purpose of blockading the French coast, prevent the sailing from Toulon, of a grand expedition, with an army on board, intended for disembarkation in Egypt? Or could they hinder another squadron from sailing out of Brest, passing the Straits of Gibraltar, and going into Toulon? No!—How then can it be expected that single vessels engaged in the slave trade, will be much embarrassed in the seas of Africa and America, by the commanders of cruisers, with inadequate forces at their disposal, and engaged in an obscure service, affording no stimulus to exertion beyond what is contained in the profit derived from captures,—a profit which they may secure to a much greater extent than any they can expect to reap from that source, from the parties themselves engaged in the trade. This may be done very easily:—for instance, by not searching a particular part of their vessel, to which, at a time agreed upon, the negroes shall be made to pass, and without there remaining a single vestige of the transaction, or any evidence of it, but that of the parties interested in concealing it.

I consider the system adopted for carrying into effect the suppression of the Slave Trade, to be altogether erroneous; and I am persuaded that the sole means of putting an end to this traffic, is by the abolition of Slavery itself in those countries in which it continues to exist, and into which the slaves are imported.

It is pretended that by the system now in use, the innumerable African Chiefs, independent one of another, and to whom the sale of slaves is the principal source from which they derive the means of supplying themselves with the goods carried by Europeans to Africa, and which, from habit, they cannot do without, (such as arms, ammunition, spirits, woven cloth, &c. &c.,) will be prevented from exporting those slaves from the numberless ports of a coast between two and three thousand leagues in extent!

It is pretended that this system will prevent the importation, along 3,000 leagues of coast in America, whose inhabitants are under the firm conviction that the labour of Negro slaves is indispensable to the preservation and augmentation of the property which each possesses; in other words, we are told to expect that the exporters of

Africa, the importers of America, and those who are engaged in the transport of slaves, will sacrifice to morality, justice, and humanity, that which they all regard as important to their interests. But how often, even in the most civilized countries, have we not beheld these virtues give way before the temptation of gold? and the British Government is at this moment giving to the world an example of this truth, in the monopoly of the opium which is sent from India, to be smuggled into China, where this pernicious drug, according to the proclamation of the Chinese Government, is the means of annually causing the death of thousands of persons. The annual profit of several thousand rupees which that contraband trade yields to the Anglo-Indian Exchequer, is sufficient in this case to cause the disregard of the principles of morality and the feelings of humanity.

In order to combat and overcome the self-interest of the exporter and importer of slaves, and the daring avarice of the Slave Trader, aided by the connivance of the people along the shores of Africa and America, it will be necessary to employ means of a magnitude proportionate to the vast extent of the earth's surface throughout which the trade is carried on, and to the obstacles in the way of its prevention. Those, however, hitherto employed by Great Britain, have been altogether inadequate to the end they were intended to accomplish.

Although I have not before me a list of the ships recently employed *specially* in this service, I believe I may assert, from certain data, that their number in the Atlantic Ocean in 1838, did not amount, corvettes, brigs, and schooners included, to thirty ships; it being remarked that it is in that sea that the service is performed with the greatest activity and regularity.

The Western shores of Africa, and the Eastern shores of South America, those of the Spanish West India Islands, and of Texas, along all of which the trade is carried on, present an extent thirty times greater than that of the entire south coast of England; thus, supposing the effectiveness of thirty ships employed in the suppression of the trade in the Atlantic, their service might be compared to that which would be rendered by one single vessel stationed in the British Channel to prevent smuggling in the south coast of England.

Hence it will be seen that in order to watch from two to three thousand miles of coast, it will be requisite to employ in that Ocean many hundred ships, in order that the efficacy of the service employed in the suppression of the Slave Trade may approximate to that of the preventive service enjoyed in putting down smuggling in England: and even then the contraband in slaves will always be proportionably greater, inasmuch as there will be times in which not a single cruiser can keep its station in the coast of Africa; as was the case in 1838, when an epidemic having broken out on board the cruisers of Sierra Leone, all the vessels stationed in that

quarter were obliged to abandon their posts for several months. (1)

The increase which has taken place in the Slave Trade in the Gulf of Benin and the Island of Cuba, notwithstanding those are the quarters in which the British Cruisers have been in the greatest force and exerted the greatest vigilance and perseverance—the possibility, in the case of great difficulties presenting themselves in the ports of the Atlantic, of transporting the slaves, though with a great increase of suffering and mortality to those unhappy beings, from Eastern Africa to the desert Coast of Southern America, or to the ports in the Pacific, and to send them thence across the Andes to Brazil and other parts—the absolute impossibility which exists, even with the co-operation of all the maritime powers, to employ a sufficient force to prevent simultaneously the continuation of the trade which is carried on along the two coasts of America, and those of Western and Eastern Africa as far as the Red Sea; that which takes place in the Mediterranean between Africa and Turkey (2) and that which exists in the Sunda Islands—since those Slaves which are not sent to America and other Christian Countries are deserving of equal commiseration and attention with those that are sent thither—the little advantage which has been derived from colonies founded in Africa, for the suppression of the trade, which has continued to be carried on with the greatest activity in the immediate vicinity of Sierra Leone, where so many resources are united against it; are circumstances and considerations which have produced in my mind a conviction that the system adopted for the suppression of the Slave Trade is erroneous, and that it is chimerical to hope that by such a system it will ever become extinct.

It is therefore highly unjust to pretend to make Portugal the expiatory victim of the error committed by the British Government in the choice of a method inadequate to attain the end which it has in view.

The only means of suppressing the Slave Trade is the total abolition of slavery in America, and in other countries where it exists and where slaves are imported. Two methods present themselves for attaining this end; one by giving pecuniary compensation to the owners of slaves, giving these their freedom at once, or within a short space of time, as was done in the British Colonies; the other by passing a law for the gradual emancipation of the said slaves, in the manner adopted by Portugal in 1773, and subsequently by Pennsylvania and other States of the American Union. This latter course would have the great inconvenience of not leading to the immediate termination of the Slave Trade, which would be carried on in a contraband way; and I therefore consider the former the only one which it would be judicious to adopt. It would however be necessary to

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(1) *Class A, (Further Series) p. 152.—Correspondence with the British Commissioners, relative to the Slave Trade, presented to Parliament 1838-9.*

(2) *Class D, page 14-15, Correspondence with Foreign Powers, 1838-9.*



employ immense sums, which all the States would be unable, and unwilling to expend. In the meanwhile were they to receive assistance, they would probably decide upon performing so great a work of humanity. Great Britain might co-operate largely in attaining this object. She, who at the cost of many millions, purchased the freedom of 800,000 slaves, would doubtless, on being called upon by her government, assist in furnishing part of the necessary means for ransoming the slaves of the Spanish West Indies, in Brazil, the Texas, and other countries. It would also be desirable that slavery should cease in the Southern States of the American Union; even though in this case Great Britain should lose the powerful influence which in time of war the free population of the British West Indies would give her over the slave population of those states.

If it be true, that thirst of gain to be derived from the traffic will have the effect of causing the cruisers to be eluded to a great extent, it does not follow therefore that these latter are of no use. The pursuit and capture of the vessels employed in the trade is a useful preliminary to the total abolition of slavery in America.

And as regards the Portuguese Colonies in Africa, the pursuit of slavers is absolutely necessary, in order that the persons who have been in the habit of trading in slaves may be taught, that the internal and external restrictions placed upon it, render it impossible for them to carry it on without great risk of loss.—This with a view of making those Colonies become agricultural and productive, the sole means by which they can be rendered useful to Portugal—to whom, hitherto, they have been of scarcely any value. The capitalists of the Mother-country and of the Colonies may then engage in cultivation, with the almost certainty of a lucrative return; inasmuch as labour can be procured in Portuguese Africa at a much lower price than it can be had for in America.

## SECTION II.

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Portugal was the first power which united with Great Britain to procure the abolition of the Negro Slave Trade. The first stipulations date from the year 1810. In 1815, the Portuguese plenipotentiaries at the Congress of Vienna, proposed to the plenipotentiaries of Great Britain the *total* abolition of the Slave Trade by Portuguese subjects at the expiration of eight years, that is, in 1823; provided Great Britain would consent to annul the treaty of 1810, the conditions of which were considered extremely injurious to Portugal. This proposition was not acceded to. The abolition of the Slave Trade at that time gave way before the commercial advantages which were derived by that treaty. Successively were entered into the Treaty of the 22nd January, of that same year, 1815; the additional Convention of the 28th July 1817; and lastly, the separate



Article of the 11th September of the same year. The treaty and convention have for their object the suppression of the Slave Trade; and grant to certain ships of war of each nation the right to search and detain the merchant vessels of the other to the south of the Equator.

In 1836, the Duke of Palmella and Lord Howard de Walden, who had been appointed plenipotentiaries, negotiated a treaty for the suppression of the trade both to the north and south of the Equator.(1)

In December of that year, the Ministry, of which I was then the head, obtained from Her Majesty the sanction of a Decree of the 10th of the month, which totally abolished the Slave Trade throughout the Portuguese dominions, and imposed severe penalties on those who were guilty of transgressing it; such as degradation, fines, incapacity to fill public offices and employments. This Decree rendered it necessary to alter divers stipulations of the treaty negotiated.

Another Decree of the 16th January 1837, declared that only those should be regarded as Portuguese vessels, which to that time had been navigated under the Portuguese flag, and those which in future should be constructed in Portuguese ports: thus putting a stop to the fraud which had been practised of making simulated purchases of foreign vessels to be employed under the Portuguese flag in carrying on the trade in slaves.

In the same year, 1837, commenced the negotiations between Lord Howard de Walden and myself for the suppression of the trade; but it was not till 1838, that after a protracted discussion, we agreed on a treaty comprising fifteen Articles, and their Annexes, respectively marked A, containing four Articles; B, containing ten; and C, containing eight; making together thirty-seven Articles, having for a basis the project of the British Government presented to that of Portugal by Lord Howard, on the 15th April in that year.(2) I will give a brief sketch of the principal stipulations of the Treaty in question.

By Art. 1. it was agreed, that the Slave Trade should be for ever abolished in all the dominions and for all the subjects of the two Crowns.

By Art. 2. was conceded the mutual right of search, by certain ships of war of each of the contracting parties, of the merchant vessels of the other; the manner of exercising that right was defined, and it was declared that it might be exercised in all the seas, excepting those of Europe and the Mediterranean.

Art. 3. regulated the conditions of Art. 2.

Art. 4. defined the manner in which parties were to be indemni-

(1.) *Vide Documentos Officiaes sobre a negociação do Tractado para a supressão do Trafico da Escravatura, per Ordem da Camara dos Senadores, 1839, pag. 1.*

(2.) *Vide Class B. p. 150-1, Correspondence with Foreign Powers, presented to Parliament, 1838-9.*

fied for losses sustained by the arbitrary and unjust detention of their vessels.

By Art. 5, it was agreed that captured vessels should be tried by a Mixed Commission, composed of Portuguese and English judges; one being resident in the Portuguese dominions and another in the British.

The 6th, was a temporary article respecting the Mixed Commission appointed under the Convention of 1817.

Art. 7. declared that none of the conditions of the treaty should be interpreted in a manner calculated to embarrass the lawful trade and navigation between the various dominions of the Portuguese Crown in Africa; and it designated these dominions both on the eastern and western coast of Africa.

By Art. 8. it was determined that merchant vessels, which should be detained, might be carried before the Mixed Commission, in case the equipments of the said vessels presented certain specified indications of their being engaged in the Slave Trade.

Art. 9. authorised the Commission to pay out of the funds arising from captures, a sum of money proportioned to the loss sustained by vessels detained, but not condemned by the Commission.

By Art. 10. it was agreed that condemned vessels should be entirely broken up and sold in separate parts.

Art. 11. stipulated that the crews of condemned vessels should be placed at the disposal of the Government whose flag they bore, to be judged according to the laws of the said country; as also the owner of the vessel, and other parties interested, and their agents.

Art. 12. stipulated that the negroes found on board should be restored to freedom, educated in the principles of christianity, and taught mechanical arts, whereby to obtain the means of gaining a subsistence.

In Art. 13. it was declared that the acts or instruments annexed to the treaty should form an integral part thereof. These were the following.

A.—Instructions to the ships of war destined for the suppression of the Slave Trade.

B.—Regulations for the Mixed Commissions.

C.—Regulations for the treatment of emancipated negroes.

By Art. 14. it was agreed, that at the expiration of ten years reckoned from the exchange of the ratifications of the treaty, each of the two Crowns should have the right of demanding a revision of any of its stipulations, or of those of its annexes, provided however, that in this revision no attack should be made upon the principles laid down in the 1st Article, *by which the Slave Trade was abolished for ever*; and any condition was to be considered suspended respecting which there existed a doubt, till such time as by mutual accord, it should be discussed and definitely determined; the party de-

manding the revision, being required to give the other six months' notice of its intention.

By Art. 15. it was agreed that the above Treaty should supersede all previous stipulations for the suppression of the Slave Trade, and that it should not invalidate the obligations contracted by the ancient treaties, alliance, amity, and guarantee, existing between the two Crowns, and which were renewed by the 3rd article of the treaty of the 22nd January 1815. In the Article 15, was mentioned the period when the Treaty should be in force in Africa; and six months were named, or sooner if possible, for the exchange of the ratifications.

The foregoing Treaty was followed by the three Annexes, the titles of which I have cited above.

In the course of the negociation, I had proposed that the British Government should guarantee to Portugal, her Colonies in Africa, and assist her with a naval and military force, in the event of any disturbance breaking out in them in consequence of the execution of the Treaty. And in case no definitive determination had been come to in this single point, which was to form an additional article to the treaty, and if its discussion had ceased, an agreement might, nevertheless, have been come to, for the offer of Lord Howard de Walden and my last proposal approximated so nearly, that they might easily have been combined. (1)

This was the state of the negociation on the 23rd of May, 1838, when Lord Howard de Walden took his departure from Lisbon to proceed to London.

I will now mention some other facts, a knowledge of which is necessary, to form a correct judgment of this affair.

Under date of the 7th May, Lord Howard de Walden wrote to Lord Palmerston as follows:—

“ I have the honour to inform your Lordship, that such progress “ has already been made in the negociations of this Treaty, that no “ principle remains to be discussed or contested by the Viscount de “ Sá da Bandeira.

“ Various alterations in details have been required by his Excel- “ lency; but they are such as, I trust, will not affect the efficiency “ of the Treaty, while it will render it less unpalatable to the Portu- “ guese public, and remove grounds upon which opposition might “ be got up by the clubs to its ratification, on its being presented to “ the Cortes.” (2)

The despatch containing this communication was received by Lord Palmerston on the 16th of the same month: (3) but his Lord-

(1) *Vide Class B. p. 183-4-7, 191, Correspondence with Foreign Powers, presented to Parliament, 1838-9.*

(2) *Ibid Class B. p. 182.*

(3) *Ibid Class B. p. 182.*

ship had already forwarded to Lord Howard de Walden, on the 12th, a copy of an address of the House of Commons to her Britannic Majesty, praying her Majesty to be pleased to enter into an arrangement with Foreign Powers, for declaring the Slave Trade to be piracy, and that those guilty of engaging in it should be punished as pirates; the House at the same time expressing its regret that Portugal had not fulfilled the obligations she had contracted, by making a Treaty with Great Britain.

This copy of the address, which was intended to be presented to the Portuguese Government, was accompanied by a despatch from Lord Palmerston, also intended to be presented to that Government, in which despatch, among other matters, it is stated:—

“ Your Lordship, in communicating this document to the Portuguese Government, will at the same time say, that it is not possible for her Majesty’s Government to permit the continuance of that system of piracy, and of that war upon the human race, which, to the disgrace and scandal of the civilized world, the flag of Portugal at present invests with impunity. You will observe that Great Britain has paid to Portugal the enormous sum of £600,000, on condition that Portugal should co-operate with Great Britain in finally and utterly abolishing the Slave Trade; and although Portugal has received the price of her co-operation, she has not hitherto performed her part of the reciprocal conditions:—to declare to the Portuguese Government that if Portugal shall decline, or shall any longer demur to conclude that Treaty, Great Britain will proceed, without further delay, to accomplish by her own means the object, for the attainment of which she will thus have failed in obtaining the co-operation of Portugal.” (1)

To the despatch of Lord Howard de Walden, in which he spoke of the progress of the negotiation of the Treaty, Lord Palmerston replied on the 19th of May. (2)

Lord Howard de Walden, however, not confining himself to requesting that the Slave Trade should be declared piracy, thought proper (without waiting a reply to his despatch of the 7th of May, in which he informed his Government of the advanced state of the negotiation) to present to the Portuguese Government, on the 18th, a copy of the despatch of Lord Palmerston.

It cannot be doubted that a communication, which in addition to a threat, contained a misrepresentation of historical facts, reflecting discredit upon Portugal, should cause a most painful sensation to the Portuguese Government; and no person can fail equally to recognise that such a communication, made at a time when the Treaty was on the point of being amicably concluded, was the most effectual means which could have been employed, had there been a wish

(1) *Vide Documentos Officiaes, por Ordem da Camara dos Senadores* 1839, pag. 41. *And Class B. pag. 180-1. Correspondence, &c.,* 1838-9.

(2) *Ibid, Class B. pag. 182.*



to break off the negotiation. Nevertheless, the negotiation proceeded, and four days after was brought to a conclusion, not only as regarded the Treaty, but also with respect to the annexes.

The new claim that the Slave Trade should be declared *piracy*, was not admitted; but in its place an eventual declaration was promised, in the basis of which Lord Howard de Walden concurred; which will be seen by the private letter which he wrote to me, and which was printed with the note, under date of the 11th September, which the Baron da Ribeira de Sabrosa addressed to the noble Lord. (1)

The communication made to the Portuguese Government, in Lord Howard's despatch of the 20th May, by order of his Government of the 12th of the same month, was replied to in a note of 22nd, in which, after defending Portugal from the gratuitous accusations which had been made against her, and setting forth the reasons which that country had for not declaring in the Treaty the Slave Trade to be piracy, it is stated that "if the British Government should come to an agreement with the great Powers of Europe, possessing Colonies, that the Slave Trade should be declared piracy, the Portuguese Government, though it could not in this respect take the initiative, would no doubt assent to such a declaration."

After what has been said had taken place with Lord Howard, it was with the greatest astonishment that I read the following in his note of the 5th May last, addressed to Baron da Ribeira de Sabrosa, (2) in reply to one which, on the 6th October, 1838, I had written to Mr. Jerningham, at that time British *Chargé d'Affaires* at Lisbon.

"The undersigned undoubtedly took home for the consideration of his Government, that incomplete Draft of Treaty: *but he did not agree to it, nor could he have agreed to it*; because he was not authorised to do so; and because he could not have done so, consistently with the tenor of his instructions."

Farther on he says. . . . . "he is here instructed by her Majesty's Government, once for all, to protest against the attempts so often made in the note of the Viscount de Sá, to represent that proposals which were made by Viscount de Sá, and which the British Government never could have for a moment entertained, ought to be looked upon as stipulations agreed to between the two Governments or their *Plenipotentiaries*."

In proof of this assertion, Lord Howard availed himself of two private letters which I had written to him, the one on the 12th and the other on the 30th May, 1838, in the latter of which I mentioned a conversation which their Majesties, the Queen and her August Spouse, had been pleased to have with me respecting a letter which

(1) *Vide Documentos por Ordem do Governo*, 1839, pag. 49.

(2) *Ibid*, pages 29, 30, 31.



the King had received from her Majesty the Queen of Great Britain. It is worthy of particular notice, that this private correspondence and a still more private conversation of their Majesties, were by the note of Lord Howard de Walden introduced into a diplomatic discussion.

As, in quitting the Government, I had not left in the office of Secretary of State for Foreign Affairs, the private letters which I received from the noble Lord, not considering them official, the Baron da Ribeira de Sabrosa wrote me, requesting information respecting the correspondence quoted by the British Minister, which information I gave, sending to his Excellency the letters I had received from that Minister; in which course I deemed myself justified, by the example of Lord Howard, who had placed at the disposal of his Government the private letters which he had received from me. (1)

I sent all the correspondence in my possession which related to the subject in question; and of this correspondence as also of other documents of *Lord Howard's own hand writing* which are in the Secretary's Office, the Baron availed himself to show with every evidence that the Treaty and its Annexes were agreed upon when Lord Howard left Lisbon on the 23rd of May for London; the additional article only being wanting, which had not been finally discussed.

I now confirm, as a private individual, that which I stated as Minister for Foreign Affairs—"that, on the 22nd May, 1839, the *Treaty for the suppression of the Slave Trade, and its three Annexes, were adjusted and concluded.*" And if Lord Howard de Walden could divest himself of the character in which he appears in Lisbon, as Minister Plenipotentiary, in which character he sent to the Portuguese Government the note of the 5th of May, 1839, drawn up in London, and sent by the express order of Lord Palmerston, *to be signed and presented, without the smallest alteration,* (2) I would address myself to the noble Lord, and invite him in his character as a gentleman to confirm that which I have now asserted.

### SECTION III.

Returning to the historical narrative, I will remark that on the 29th May, I wrote to the British Chargé d' Affaires, Mr. Jerningham, inviting him to ask his Government for the necessary power to sign the *Treaty concluded by Lord Howard de Walden with myself, and to discuss and sign* the additional article.

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(1) *Vide Note, of the 5th May, 1836, from Lord Howard, to the Baron da Ribeira de Sabrosa—Documentos, &c. 1839, pages 29-30-32.*

(2) *Vide Class B, page 192-3. And Class B, (Further Series) page 91, 103.*

On the 1st August, Mr. Jerningham addressed to me two notes-- In the first he stated that he had "received a full power, which the Queen had been graciously pleased to grant to him, authorising "and empowering him to conclude and sign. . . . a Treaty between "her Majesty and her most Faithful Majesty for the suppression of "the traffic in Slaves." (1)

In the second, which was drawn up in London, and which was accompanied by the draft of a Treaty, also drawn up in the same capital, the Treaty previously negotiated with Lord Howard de Walden was considered as *a counter-project of mine* ! And it further stated that "the undersigned has been instructed to observe to his "Excellency the Viscount de Sá da Bandeira that any further delay "in concluding this Treaty, or any further proposal of alterations "in this draft, must be considered by Great Britain as tantamount "to a refusal on the part of Portugal, to fulfil the engagements "by which she is bound in this matter." Mr. Jerningham even added, "The undersigned has been further directed to state to his "Excellency the Viscount de Sá da Bandeira, that he is instructed "positively to refuse to send back again to his Government, any of "the Portuguese propositions, which her Majesty's Government "have, upon full consideration, rejected." (2)

Subsequently to this Mr. Jerningham declared to me, in a conference which we had together, "that he was authorised to sign the Treaty, *but not to negotiate*."

In the new draft then presented, Lord Palmerston had inserted conditions to which Portugal could not and ought not to accede : for instance, the *perpetuity* of all the stipulations of the Treaty and its Annexes ; the *power* which it gave to British cruisers over Portuguese vessels, which they might destroy at their pleasure in the seas of Africa, and that of *harassing* the Portuguese Colonies, has had before been practised.

Besides this, this draft contained considerable alterations in the clauses agreed to between myself and Lord Howard ; clauses in accordance with the stipulations of the Treaties of 1815 and 1817 ; and with those which, in 1835, were agreed to between Great Britain and Spain. Certain clauses also had been suppressed, and new ones introduced ; some, contrary to the interest of Portugal ; others, offensive to the dignity of an independent nation ; the whole appearing calculated with a view to enable the commanders of cruisers employed against the Slave Trade, freely and without responsibility or fear of punishment, to interfere with, and oppress the lawful

(1) *Vide Class B. pag. 303. Correspondence, &c. 1838-9. And Documentos Officiaes, por Ordem da Camara dos Senadores, 1839, pag. 39.*

(2) *Vide Documentos Officiaes, por Ordem da Camara dos Senadores, 1839, pag. 20. And Class B. pag. 303. Correspondence, &c. 1838-9.*

commerce and navigation of Portugal, and the Colonies belonging to her in Africa. (1)

It was impossible, therefore, that the Portuguese could ever accept the draught of a treaty presented by Mr. Jerningham, unless there had been previously made in it, great alterations, both in principle and detail. But the declaration contained in the note which accompanied the draught, imposed upon Her Majesty's Government the duty of rejecting the treaty, in consequence of the claim made upon it to accept it without any previous discussion. It appears impossible that this result could have been otherwise than foreseen by the British Government, when forwarding its instructions to its Chargé d' Affaires.

The note which I sent to Mr. Jerningham on the 6th Oct. 1838, and which has been already published, is sufficiently explanatory on this point; as it contains the following declaration—"that (the Portuguese Government) was ready to sign the treaty agreed to with Lord Howard, and to make such modifications in the additional Article as the interests of the two countries might require." (2)

It is to be observed, 1st. The communication to the Portuguese Government of the Despatch of Lord Palmerston of the 12th May 1838, (containing unfounded and injurious accusations against Portugal) was made at a time when the treaty was on the point of being concluded. 2nd. The rejection of the treaty by the British Government, after it had been negotiated by its plenipotentiary. 3rd. The declarations and requirements presented by Mr. Jerningham, which, it was evident, could not be admitted.

From these facts it will be concluded, that the object of so extraordinary a proceeding was to prevent the final conclusion of the treaty, from certain views having no connection with it: it appears also that it was attempted to throw discredit on the administration which then conducted the affairs of Portugal, and which was considered by the English Minister then resident in Lisbon, to be hostile to the interests of Great Britain; (3) an assertion without any foundation, as was many times expressed to Lord Howard: since the Portuguese Government has always considered the alliance of Great Britain as most valuable, and as one which ought to be drawn more closely by mutual convenience; which is that in which the interests of both nations are equally and really attended to: as it ought not to be viewed as an act of hostility,—that in 1837, the trade of Great Britain in Portugal was placed on the same footing as that of the most favoured nations: while the trade of Portugal has ceased to enjoy any advantage in Great Britain since 1831, when

(1) *Vide Note of 6th October, 1838, from the Viscount de Sá da Bandeira to Mr. Jerningham.*

(2) *Vide Documentos Officiaes, page 143. And Class B, page 320. Correspondence, 1838-9.*

(3) *Vide Class B. (Further Series) p. 48, in the Despatch of 17th Feb. 1839, from Lord Howard de Walden to Lord Palmerston.*

a Ministry, of which Lord Palmerston formed part, raised the duties on Portuguese wines, equalising them with those of France, (at the same time that, according to treaties then in force, they ought to have paid one-third less than those of that country;) without the Portuguese Government being heard, or at least advised, on so important a measure. So contrary to justice was the measure considered, that it was observed in Parliament during the debate on this question, as the reason why the British Government adopted this course with respect to Portugal, "that Portugal is very weak, and "we are very strong; and that therefore we may do as we like.".. (1)

There does not exist a single fact which affords the slightest foundation for the supposition, that the Portuguese Government has been hostile to the interests of Great Britain; though there are many which, without any violence of construction, would lead us to attribute to Lord Palmerston this spirit of hostility against the interests of Portugal.

There have been in this country contests between political parties, and the blood of Portuguese has unhappily been poured out in the field of civil warfare; while the agents of the noble lord not only did not interpose their good offices to restore peace and concord, which would assuredly have been accepted with gratitude; but they are not altogether free from the suspicion of having taken a decided and influential part in the events which led to those unhappy conflicts.

The Orders in Council of Her Britannic Majesty, of the 10th of May 1837, are also characteristic of the noble Lord, and of the administration of which he forms a part. By these Orders, the ships, and produce of Portugal, entering the ports of Great Britain, are made to pay disproportionate discriminating duties, while the ships and produce of Great Britain are placed on the same footing in the ports of Portugal as those of the most favoured nations.

Another fact is, the claim made upon the Portuguese Government for the *immediate payment* of the amount owing for the maintenance of the English Auxiliary Legion, which was lent to Portugal in 1827; a sum which the noble Lord did not attempt to procure from the Government of Don Miguel.

Of the same kind are the greater part of the pecuniary claims of British subjects, exacted by the noble Lord, which are devoid of any just foundation, either, in the treaties existing between the two countries, or in the universal principles of the laws of nations; in addition to which, the noble Lord, without any previous consultation with the Portuguese Government, and, consequently, of his own will, had decided upon some of the claims preferred, thus (as it would seem) arrogating to himself the extraordinary power of imposing forced contributions on an independent and friendly state.

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(1) *The Mirror of Parliament,—Debates of the House of Commons, 11th July, 1831.*



Claims, such as many of these are, of sums not due or liquidated, thus preremptorily exacted, resemble, if obtained, a veritable spoliation, aggravated also by the knowledge which the noble Lord must have of the exhausted state of the Portuguese finances.

If these and other facts furnish presumptive evidence of the noble Lord's hostile spirit towards the interests of Portugal, his language both in his official correspondence, and in his place in Parliament, tends no less to give credit to the supposition; language very different from that employed by the noble Lord in the parliamentary debates occasioned by the capture of the English ship *Vixen*, by the Russian cruisers in the Black Sea; by the question of the territorial boundaries of the United States, and the British Province of New Brunswick; and that between Great Britain and France respecting the trade in Gum Copal on the coast of Africa, near to Portendic; in which debates he made use of none of that opprobrious language towards the Governments with which England had disputes, as he did in the case of Portugal.

In fact, it does not appear that the noble Lord has kept in view the preservation of that spirit of mutual sympathy, friendship, and benevolence, which for so many centuries has existed between Great Britain and Portugal, cemented by long alliance and numerous treaties, and manifested during many a stubborn fight, in which the banners of the two countries have floated side by side with each other. It would, nevertheless, be productive of much mutual benefit that this spirit of friendship and benevolence should be preserved and respected between the two nations.

The Government of Portugal was placed in the following dilemma—either to accept, without discussion, the proposed treaty, dictated by Lord Palmerston, to subscribe to conditions hurtful to Portugal, and thus to incur disgrace with the Portuguese nation,—or, to reject the treaty, and thus expose itself to loss of reputation in the eyes of Great Britain and of the civilized world.

This is proved by the speech of Lord Palmerston, and by the dispatch which, under date of the 15th February, 1839, (1) was forwarded to him by Lord Howard, in which, referring to the hypothesis of the treaty not being accepted, he mentions having informed me . . . . "That Portugal would be denounced by all the civilized world, as the protection of Slave Traders, and the abettor of the Slave Trade; that in the British Parliament the strongest measures adopted against Portugal would be hailed with acclamation, while speeches there pronounced, most injurious to the character of the Government and of the nation, would go forth to all parts of the world unanswered; that he and his friends might cry out and declaim against us in reply as much as they liked in the Cortes; that nothing they said would be heard of or read out of Portugal."

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(1) *Vide Class B. (Further Series) pag. 48.*



These threats were realized by the speeches of Lord Palmerston and others.

Lord Howard de Walden, after his return to Lisbon, had several conferences with me, in which the negotiations were continued for the suppression of the Slave Trade, and a few extracts of what passed at these conferences, taken from the correspondence of Lord Howard with Lord Palmerston, (1) will also show that the Portuguese Government was ready to sign the treaty previously negotiated.

*On the 26th November* the British Plenipotentiary wrote that he had had a conference with me, and that I, evincing a strong repugnance to the proposed treaty presented by Mr. Jerningham, declared to him my "readiness to conclude a treaty for the object of rendering the abolition of the Slave Trade effective, but added, that it must however be such as was suitable to the dignity of the nation. He then declared his willingness to sign the treaty in the shape it was left by me in May last, *abandoning for the present the proposed additional or secret Article*, leaving this object to be treated apart."

*On the 1st December*, the noble Lord wrote that he had a conference with me, and that on proposing to enter into an examination of the treaty presented by Mr. Jerningham, I objected to doing so, stating that I "was ready to renew the negociation on the project of treaty, as it stood on his departure for Lisbon; but that, in consequence of the declaration, in the name of Her Majesty's Government, with which the last project had been accompanied, it was impossible for me to negotiate upon the latter." (2)

*On the 24th January*, 1839, the same Minister wrote to his Government, that he had Informed me that "he had no authority to make any concession whatever on the last points of difference." (3)

*On the 21st February*, referring to a conference with me, he wrote thus: "His Excellency then said that, to prove his anxious desire to bring to a termination all such differences as had been referred to, he had considered how the main difficulties in the way of the conclusion of a suitable treaty for the suppression of the Slave Trade could be brought about, and he showed me some notes he had made on the various principal points. The proposed guarantee of the safety of the colonial possessions, required by Portugal, to be reduced to a general engagement of naval assistance, from the Cape of Good Hope, to be afforded in case of emergency..... The Viscount de Sá's counter project (that which was signed by Lord Howard) to be admitted as the basis.".... (4)

(1) *Vide Class B. pag. 331,2.*

(2) *Ibid, Class B. pag 335.*

(3) *Ibid, Class B. (Further Series) p. 40.*

(4) *Vide Class B. (Further Series) p. 53-4.*

And he adds, "On reading these *memoranda*, I at once told the Viscount de Sá, that such propositions were utterly inadmissible; that I could not now open any fresh negotiation as to terms; . . . that I could make no alteration in the project which had been submitted to the Portuguese Government; and that, if a treaty was to be signed by me, it must be in strict conformity to the draft in his Excellency's possession." (1)

These facts render it evident—

1. That at the time when I held the Office of Secretary of State for Foreign Affairs, the Portuguese Government was prepared to sign the treaty negotiated between me and Lord Howard; to modify that treaty, and even to set aside the additional article, to be discussed separately, after the treaty should have been concluded.

The same disposition existed also in the administration of the Baron da Ribeira de Sabrosa, as appears by the papers which have been published.

2. That Lord Howard not only did not accept that proposition, but declared most positively that he would not sign any treaty which was not in *strict conformity* with the draft sent from London, and drawn up there.

It appears a necessary deduction from all this, that the British Government had no desire to conclude the treaty. Without staying to inquire into the motives for such a proceeding, I may here state, that the non-conclusion of the treaty has already furnished a pretext for the British Government to legislate for the subjects of Portugal. Time must show by what other motives the noble Secretary of State was actuated, when in the same Parliament, he made use of that pretext to endeavour to render the Portuguese nation and Government odious in the eyes of the civilized world.

In the despatch already cited, of the 21st February, 1839, addressed to Lord Palmerston by Lord Howard de Walden, he says (2)

"In concluding my report on the long conversations I have had lately with the Viscount de Sá da Bandeira, I think it right to state, that I look upon them as entirely without any practical result, as I consider his Excellency to be controlled by some overwhelming influence."

The noble Lord at various times wrote in the same strain, and on one occasion he said, that the non-conclusion of the treaty was owing to my deference to —. . . "the interest taken in the continuance of the Slave Trade by some of my political adherents." (3)

(1) *Ibid*, Class B. (*Further Series*) p. 54.

(2) *Ibid*, Class B. (*Further Series*) p. 54.

(3) *Vide* Class B, page 337

In another despatch he expresses himself thus: "I do not attribute to the Viscount de Sá da Bandeira the desire to protect the Slave Trade: as I believe him to be impressed with a high idea of the value and resources of the African colonies of Portugal; and that, if well directed, on the abolition of the depopulating system of exportation of negroes, they might be made to replace to the mother country the loss of the Brazils. I am however convinced, that delay is now the object of Viscount de Sá, in order to relieve himself from daily persecution from those who, through active intrigue, are opposing the abolition of the Slave Trade; and that he thinks he can in some measure conciliate certain parties, whom he looks upon as still important politically, by allowing them a somewhat longer period for their transactions, previous to cutting off the source of extensive advantages to them, the loss of which might provoke vindictive hostility, inconvenient to the Government during the ensuing elections." (1)

This idea was also expressed to me personally, by Lord Howard, on more than one occasion; to which I replied that no one had ever said a single word to me during our negotiation, either for or against the subject; that I was not acquainted with an individual in Portugal, who was engaged in the trade; that even the British Government, which had been so strongly solicited to forward accusations to the Portuguese Government against certain persons in its employment out of Portugal, had not till then manifested any suspicion on such grounds, against any individual *resident in Portugal*.

That the only suspicion manifested by the British Government had reference to a Society which appeared to exist among some foreign persons, established in Lisbon and elsewhere.

And that therefore, whatever had been said in that respect, either to Lord Howard, or to Lord Palmerston, was false: as would be evident to both of them, if they reflected on what I had done against the Slave Trade, and that there had never been a minister of the Crown in Portugal, who had more perseveringly opposed it than I had done. And I remarked, as a proof that I had no intentions in favor of the dealers in slaves, that in 1835 I proposed in the Chamber of Peers, of which I was a member, the total abolition of the Slave Trade.

That while minister, in 1836, I proposed the decree of the 10 December, imposing severe penalties on slave dealers, to which her Majesty the Queen was pleased to affix her royal signature, and which was countersigned by all the ministers.

That I had also myself recommended to the Portuguese Consuls, and to the Governors of Colonies, the literal execution of the decree

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(2) *Ide Class B, page 183.*

of the 16th January, 1837, which defines what vessels were to be considered Portuguese.

That it was by the Office of the Secretary of State for Foreign Affairs, over which I presided, that the Portuguese Consul at the Havana had been dismissed, and the exequator of the Danish Consul at Cape Verd withdrawn, in consequence of their having connived at that infamous traffic.

That it was myself who had issued the most positive instructions to the Commanders of the Portuguese men-of-war for the strict execution of the decree of the 10th December, 1836, from which resulted the capture of seven or eight vessels suspected of being engaged in the trade, and the condemnation of several of them, in conformity to the said decree.

That it was by the Office of the Secretary of State for Marine, also under my charge, the Governor-General of Angola had been dismissed and put on his trial, with other employés of the government, suspected of conniving at the same trade.

That the same department prohibited the very ancient practice in Angola, of obliging free negroes to transport into the interior of Africa the goods of the merchants, which were destined by these latter to be exchanged for slaves; a prohibition which persons practically acquainted with Angola consider much more efficacious for the abolition of the trade than the employment of numerous cruisers on the coast of that country.

And finally, that in addition to all this, I had concurred in the nomination, as Governors of the African colonies, of functionaries who would execute with zeal the orders of Government for the suppression of the trade.

All these proceedings were the consequence of my own opinions relative to the traffic; opinions which are stated in many official documents, and, among others, in the report prefixed to the decree of the 10th December 1836, from which it will suffice to extract the following quotation.

"That in her African possessions, Portugal may raise in great abundance all those productions termed colonial, at a less cost than they can be produced in America, inasmuch as the African cultivator will not be under the necessity of purchasing labourers transported from the other side of the Atlantic. That great results may be accomplished within a few years; but that in order to obtain these, it is necessary to reform the colonial legislation, and *that as an indispensable preliminary to all other measures*, Ministers propose for the sanction of Her Majesty, the Queen, the decree *for the total and complete abolition of the Slave Trade in the Portuguese dominions.*"

I will also add, that the speech from the throne, on the opening of the Cortes, in December, 1838, (I being then President of the Council) mentioned the expediency of treaties for the abolition of the Slave



Trade, which sentiment was responded to by each of the Chambers; and the debate which took place therein on this subject was remarked upon to his Government by the British Minister at this Court, on the 15th of February, 1839, as having been "*creditable and satisfactory*." (1)

Now, after having affirmed most positively to Lord Howard, that no one, either directly or indirectly, had any influence over the pending negotiation of the treaty, had his Lordship considered the perfect agreement which existed between my actions and my words—had he reflected that all the many spontaneous measures, not thought of, or solicited by the British Government, which had been adopted by me against the Slave Trade, were directly hostile to the persons engaged in it, and that the latter would, for that very reason, be opposed to me—finally, had he considered attentively, and without prejudice, all the circumstances of this affair, with which he ought to be perfectly acquainted—it was certainly to be expected, and would be proper and just, that his Lordship, setting aside all suggestions of passion, would give due credit to my assertions, and at least not have allowed himself to be so easily betrayed into the fault of transmitting to his Government erroneous information on so important a point, pledging his own conviction to persuade it that the negotiations had been influenced by persons interested in the Slave Trade.

It is certainly very remarkable that the noble lord, in his correspondence, should make so many efforts to persuade his government of the existence of a cause, which never, in the most remote degree, existed; and which, had it been real, would reflect odium and discredit on the Portuguese Government, and particularly on the Minister with whom he was treating. And if the noble Lord had at that time, or has had since I quitted the administration, a single proof of the truth of the information on this head which he transmitted to his Government, I call upon him to produce it. I feel assured that he cannot do so, any more than he can deny the fact of having given that information.

Assuredly those persons will not require to imagine extraneous influences, as the principal motive for not concluding a treaty in the manner last required by the British Government, who reflect on the pertinacity of that Government in insisting on conditions, which, while they were not necessary for the efficiency of the treaty, were nevertheless highly injurious to the interests of Portugal, (1) and who, at the same time, consider the manner in which they were presented to the Portuguese Government. How could I, who for thirty years have been engaged in the service of my country, and who have shed my blood in contending for her independence against a foreign

(1) *Vide Class B, (Further Series) page 47.*

(1) *Vide Note, 6 October 1838, directed to Mr. Jerningham: Documentos Officiaes, page 123.*



yoke, and in the defence of her civil liberty, and the cause of her legitimate sovereigns, subscribe with the only hand I have left, a diploma prejudicial to the interests of my country, and derogatory to the dignity of the Crown of Her Majesty the Queen.

## SECTION IV.

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Notwithstanding the repeated declarations of the Portuguese Government, that it was prepared to sign the treaty agreed upon at Lisbon by the British Plenipotentiary, and to leave to a separate negotiation the additional article, Lord Palmerston thought proper to propose to Parliament a Bill for submitting to the jurisdiction of British Courts, all vessels *sailing under the Portuguese flag, and with Portuguese papers*, which should be suspected of engaging in the Slave Trade; and also those vessels which should be found sailing without flag or without papers; or, lastly, which should refuse to exhibit them to the British men of war, when visited by these latter.

Before, however, I enter upon the examination of the speech delivered by Lord Palmerston, in Parliament, in support of his Bill, I will observe that the state in which the question then stood, which was pending between the Portuguese Government and that of Great Britain, was as follows:—

The British Government refused to ratify the treaty which had been negotiated by its Plenipotentiary, in May, 1838. It claimed to substitute for it another treaty, dictated by itself, and containing stipulations exceedingly injurious to Portugal, requiring it to be signed without alteration or delay by the Portuguese Government; and declaring that in the event of the latter not acquiescing therein, the Government of Great Britain would act upon its own interpretation of the treaties of 1815 and 1817. (2)

The Portuguese Government replied, that it was prepared to sign the treaty agreed upon in May, 1838, between the Plenipotentiaries of Portugal and Great Britain. That it could not, and ought not to accept the treaty drawn up in London, which was being presented to it; not only because that treaty contained stipulations contrary to the interests of Portugal, but also because it had not been discussed by the Portuguese Government, and especially on account of the peremptory manner in which its acceptance had been demanded. That as to the interpretation of the treaty of 1815, and of the additional Convention of 1817, that interpretation was clearly defined by the separate article of the 11th September, 1817, which determined that the said Convention, which related exclusively to the trade north of the Equator, should “remain in force until the

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(2) *Vide the same Note of October 6, 1838 : Documentos Officiaes, page 133.*

“ expiration of fifteen years, from the day on which the general abolition of the Slave Trade shall so take place, on the part of the Portuguese Government; in case no other arrangement, adapted to the altered state of circumstances, shall have been agreed to by common consent.” (1)

That this case has occurred, 1st. because the Portuguese Government on the 10th December 1836, had decreed the total abolition of the Slave Trade. 2nd. because the Government of Great Britain had refused to come to a common accord in not ratifying the Treaty negotiated by its plenipotentiary. And, consequently, that whatever violent measures might be adopted by the British Government, would not be justified either by right, by reason, nor by necessity.

Lord Palmerston, in his capacity of Minister for Foreign Affairs, brought his Bill into Parliament on the 10th July last, (1839) preceded by a preamble which, as I have already said, contained the most serious, unfounded, and injurious accusations against Portugal and her Government. But as this Bill was thrown out by the House of Lords, the said minister thought proper to bring it in afresh, slightly altering the preamble, and introducing it with a long speech, in which he endeavoured to show the urgent necessity which existed for the adoption of the measure.

In effect, after some amendments, the measure was adopted, and is now the law of Great Britain.

Comparing the preamble of the first Bill with the speech of the noble Lord, it is easy to see that the arguments contained in the preamble, and by which he attempted to give an evidently false interpretation to the treaties, were not only repeated in the speech, but also augmented by a great number of fresh aspersions and imputations against the said Government. So that the analysis of the speech of Lord Palmerston, will by implication, include that of the preamble of his first Bill.

The noble Lord commenced by saying, “ that Portugal is bound by different treaties with this country to abolish her Slave Trade —not only to co-operate with us in that abolition, but to use all the means in her own power to accomplish that purpose.” (2)

Respecting the Slave Trade, there are now in force between Portugal and Great Britain the Treaty of 1815, the additional Convention of 1817, and the Separate article of the 11th September of the last year.

I shall enter into an examination of the conditions of these treaties, because in notes, published through the press, which on the 22nd May, and 6th October, 1838; I addressed to Lord Howard de Walden, in reply to other notes of his; and also in that which the

(1) *Hertslet's Complete Collection of the Treaties and Conventions*, London, 1820, Vol. 2. pagv 73 to 123.

(2) *Vide, The Morning Chronicle*, August 8, 1839,—*And The Mirror of Parliament*, 1839, Vol. 6. *House of Commons*, August 8, 1839.

Baron da Ribeira de Sabrosa sent to the same noble Lord, on the 11th September last, the interpretation of those conditions is treated of at length, refuting at the same time, the assertions and pretensions contained in the notes of the same noble lord. I will, however, remark, that the separate article of the 11th September, is the last stipulation agreed upon between Portugal and Great Britain; and that therefore, as has been already said, the said treaty and Convention ought, according to the said article, to continue in force for the space of fifteen years (but only to the north of the Equator) reckoned from the time when the Slave Trade was abolished by Portugal.

Lord Palmerston says "we gave her money, which, by her own admission, amounted to nearly half a million; beyond that, we paid to Portuguese owners for the loss of their slave ships upwards of £300,000, as compensation money..... as the price for her abolishing the Slave Trade..... The Treaties of 1715, and 1817, contained engagements most stringent and complete upon this subject." (1)

The Portuguese Government has already given an official answer to this assertion; but as the noble Lord still persists in it, I will here give what is set forth in the Treaties.

In that of 1815, Art. 4. it is stated, "the high contracting parties reserve to themselves, and engage to determine by a separate Treaty, the period at which the Trade in Slaves shall universally cease, and be prohibited throughout the entire dominions of Portugal." (2)

And by the separate Article of 1817, it was stipulated that, "As soon as the total abolition of the Slave Trade for the subjects of the crown of Portugal shall have taken place, the two high contracting parties hereby agree, by *common consent*, to adapt to that state of circumstances, the stipulations of the additional Convention, concluded at London, the 28th of July last."

And in the same Article an arrangement was made that "in default of such alterations, the Additional Convention shall remain in force."..... (3)

Thus the affair stood exactly in the *position* contemplated by the separate article, when Lord Palmerston brought forward his Bill; since the *British Government had not consented* to the arrangement agreed to by its Minister Plenipotentiary with the Minister Plenipotentiary of Portugal.

The £300,000 mentioned by Lord Palmerston, were intended by the Treaty, as an indemnification for the losses sustained by Portuguese subjects in consequence of the capture of their vessels by British men-of-war.

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(1) *The Mirror, ibid, August 8, 1839.*

(2) *Vide Hertslets', ibid.*

(3) *Ibid.*

The Treaty of alliance of 1810 gave no right of search or capture to the ships of war of Great Britain, over the merchant vessels of Portugal; and yet between that year and 1814, the spoliations committed upon the trade of Portugal by the British navy exceeded 3,000,000 cruzados. And this was done even at a time when Portugal and Spain were the only allies of Great Britain; and when the Portuguese army was fighting in the Peninsula, and subsequently beyond the Pyrenees, for the independence of England and her political ascendancy.

It is surprising therefore that the noble Lord should endeavour to make that appear as a favor granted to Portugal, which was scarcely a scanty reparation of the losses and injuries unjustly inflicted upon Portuguese subjects by those in the employ of Great Britain.

As to saying that Portugal admitted having received "nearly half a million sterling as the price of the abolition of the trade," the noble Lord, when he made such an assertion, certainly forgot that Portugal never did, nor could make such an admission; since the 5th Article of the Treaty of 1815, in virtue of which the British Government *remitted the payment* of the instalment which yet remained to be made by Portugal, in liquidation of the loan contracted in London by the Convention of the 21st April, 1809, (destined principally for the purchase of warlike stores to be employed in the defence of Portugal against the French; in which defence was at that time included that of Great Britain) makes especial reference to the 1st article of the said Treaty, "by which the subjects of Portugal were prohibited from continuing the Slave Trade to the north of the Equator."

The British Government, in consenting to annul the said Convention, and in remitting the payment of nearly £450,000 sterling, was actuated principally by two motives.

The first was the consideration of the prejudice sustained by the Portuguese by the abolition of the trade north of the Equator, and the immediate diminution which would be thereby occasioned in the Portuguese Customs, both in Africa, whence the Slaves were exported, and in Brazil, where they were imported—a consideration analogous to that which existed in the case of Spain in the Treaty of 1817, by which Great Britain consented to pay that power the sum of £400,000 sterling, "*as a full compensation for all losses which are a necessary consequence of the abolition of the said traffic.*" (1)

The second and principal motive of the British Government, was the consideration of the reparation and indemnification which, in strict justice, was due to Portugal, for having by its own act, and without the consent of the Portuguese Government, ceded to France by the Treaty of Paris in 1814, French Guyana, which had been conquered and was under the dominion of the Portuguese Crown;

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(1) *Hertslets' ibid*, Treaty September 23, 1817, Art. 3, and 4.



and this, at the same time that England retained and kept in her own possession part of Dutch Guyana, and many other colonies which she conquered during the war; as, for instance, the Cape of Good Hope, Ceylon, the Ionian Islands, Malta, Heligoland, Saint Lucia, the Mauritius, &c., &c., &c.,

In neither of the articles of the treaties of 1815, and 1817, is it to be found that Portugal received any sum whatever *as the price of the future abolition of the Slave Trade*. There is, therefore, no foundation for the injurious assertion, so frequently reiterated by Lord Palmerston, that Portugal had received the price of her co-operation in that object.

The noble Secretary of State further asserted "that Portugal had not fulfilled her engagements. . . . that there is no instance in history of such a flagrant breach of faith, as that committed by Portugal towards this country with regard to the Slave Trade."

The arguments which he advanced in support of this assertion are the following: 1st. that "instead of suppressing the Slave Trade, and abolishing it, she (Portugal) encourages it."

2nd. That "she not only connives at it by her officers, but the authorities actually lend themselves to it, thrive by it, make fortunes by it, enrich themselves by it."

3rd. That the Slave Traders "form parties of an influence which controls and overrules the Government at Lisbon;" and that "by this slave trading faction, the Government of Portugal has been prevented from acceding to the Treaties which we have proposed." . . . . . (1)

An examination of each of these arguments, or rather iniquitous assumptions, will furnish the strongest evidence that they are altogether illusory and destitute of truth.

The acts of the Portuguese Government in abolishing the Slave Trade; in prohibiting the fraudulent use of the Portuguese flag by Slave ships; in issuing instructions to the Governors of its African colonies, and to the Commanders of its ships of war, to carry those decrees into execution (which they have done); are evidences that the accusation "that Portugal encourages the Slave Trade, instead of suppressing it," is contradicted by facts, and is without even the semblance of reality.

The second assumption "that Portugal, by her officers, connives at the traffic," is destroyed, both by what has been said with respect to the former, and also by other facts within the knowledge of the noble Lord, and already cited in another part of this work; as, for instance, the dismissal of the Portuguese Consul at the Havannah, and the dismissal and prosecution of a Governor of Angola, and other employés, for having connived at the Slave Trade.

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(1) *The Mirror, ibid, August 8, 1839.*

The second assumption therefore is destitute of truth.

The Portuguese Government on this point did all that was incumbent upon it, according to its own laws; and it cannot be held responsible, nor justly accused, because a contraband traffic in slaves is carried on under the Portuguese flag.—And is the British Government responsible because the smugglers of Gibraltar pass the straits and go and land prohibited goods on the coast of Algarve, and other parts of Portugal, as they do also in Spain? Or because those of the Ionian Islands, Heligoland, Jersey, and Guernsey, pursue the same course on the coasts of the neighbouring countries?

The third assumption advanced by the noble Lord is “that the “slave trading faction overrules and sways the Government of Portugal,” and that for this cause “it has been prevented from acceding to the treaties proposed by the noble Lord.”

In order to prefer with truth an accusation so injurious to the Portuguese Government, the noble Lord ought to have been in possession of incontrovertible proofs, or not having them, he should have confined himself entirely to the information derived from his delegate at Lisbon—who in effect, thus affirmed it (1). This latter, however, was not in possession of a single fact on which to found the opinion he had conceived that those engaged in the Slave Trade had any influence over the Government, either directly or even indirectly; and if he had proofs of this, it was his duty to produce them; and that of his minister to require them in support of an accusation so offensive, and which he could not be ignorant was completely at variance with the truth.

But the fact is, that if there exists in Lisbon a faction, such as that alluded to by the representative of Great Britain, this faction (known only to himself) possesses no influence over the acts of the Government; as is evident on the slightest reflection, from the repeated and severe measures, already referred to, which have been adopted by the Portuguese Government for the complete cessation under every form, of the Slave Trade.

Assuredly it would be the height of absurdity to suppose, that a faction favourable to the trade, or interested therein, controlled the Government; and that the latter, at the same time, abolished the traffic, imposed rigorous penalties on the traders, punished those who were found guilty of engaging in this infamous traffic, and adopted the numerous precautions already mentioned for carrying the decreed abolition into effect; so that Brazilian vessels arriving at Angola for the purpose of taking slaves, have been obliged to return without a cargo; as is shown by the following extract from a newspaper published at Rio de Janeiro, of the 9th July 1839. (2)

(1) *Vide Parliamentary Papers already cited.*

(2) *O Despertador.*

"Angola Slave Trade—The Brig *Saudade*, arrived this day from Loanda, brings letters from that city of a very recent date, (of last month) the contents of which have been communicated to us, and agree that the new governor is decidedly hostile to the Slave Trade, to such a degree, that any attempt to engage in it, is now very difficult and hazardous." This is confirmed by the subsequent correspondence from Rio, of the 20th October, published in a London Journal (1) which states that "the Portuguese Government had issued some peremptory instructions to the authorities there, and on the coast of Africa, which for the present had paralyzed the trade; so much so, that for the last two months there had been only three arrivals of slavers."

It was certainly to be supposed that the Vice Admiral Noronha, acted in conformity to the spirit of the instructions which he had received from his Government, in accepting the co-operation in putting down the trade, which had been offered him by W. Tucker, the official Commander of the British naval forces in that quarter; and in making with him on the 29th May, 1839, a convention, in which the said British Commander acknowledged that the Governor-General *had at his disposal sufficient means, furnished by the Portuguese Government, for the suppression of the Trade.* And these facts occurred two months before Lord Palmerston asserted in the British Parliament that Portugal encouraged the trade in every part of the world!

And supposing that the British Government did not think proper to sanction this Convention, as was done by that of Portugal,—supposing that, in contravention of what had been stipulated therein, the Commander of a vessel belonging to the force under the command of the very officer who had proposed and adjusted it, sunk two Portuguese vessels, which he had seized in the river Zaire, even aggravating the flagrance of this act by the insolent outrage of causing the Portuguese flag to be hoisted on board one of the vessels which by firing upon her, he sent to the bottom,—(2) notwithstanding this, that Convention does not the less prove the spirit by which Portugal was actuated in her part of the transaction; as also the attack made upon her by the British Government would appear to show that this latter is not animated by sentiments of justice and conciliation.

The noble Secretary of State ought not to attribute the non-acceptance of the treaty dictated by his cabinet, and which he required to be signed without discussion, or modification, to any other party than the Portuguese Government, whose organ he took me to be at that time.

It has been long known as my opinion, that the suppression of the Slave Trade was imperiously required by the present civilization

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(1) *The Times*, December 16, 1839.

(2) *Diario do Governo*, December 11, 1839.

of Europe, and an indispensable preliminary to the future civilization of Africa, and not less so to the Portuguese Colonies in that part of the world becoming useful to the Mother Country; since it will be only after the abolition of that trade, which has hitherto depopulated and rendered them unproductive, that those Colonies can become agricultural, and be the means of creating an important commerce, truly Portuguese, in the place of that which has been carried on by the slave-ships, in which Portugal has had scarcely any concern, beyond the fraudulent assumption of her flag.

Having had the honor to be called to her councils by her Majesty the Queen, I was in a position to ask and obtain the royal sanction to numerous measures, which have been for the most part published, having for their object the suppression of the traffic, and to promote the developement of the industry, agriculture, lawful commerce and civilization of those Colonies.

As treaties between the Maritime Powers, for the suppression of the Slave Trade would tend (though, as I have already said, not to the extent anticipated) to accomplish that object, the conclusion of such a treaty is consequently in accordance with my opinions and with my acts. And as Great Britain does and can employ a greater force than any other nation in putting down that traffic, it is with that power that it is most expedient to enter into treaties for the suppression of that unlawful commerce.

A treaty for that purpose was negociated by me in 1838, with the British Plenipotentiary, who, as before stated, wrote on the 7th May in the same year to Lord Palmerston, "that no principle remained to be discussed or contested by the Viscount Sá da Bandeira." (1) And at the end of the same month, the said Plenipotentiary presented in person to his government, a copy of the treaty which he had negociated with me; a treaty, which I again repeat, the Portuguese Government had many times declared itself ready and willing to sign.

In the face of such facts, with which the noble lord ought to have been perfectly acquainted, how could he assert in his place in Parliament, that the Portuguese Government was ruled by a faction of slave-dealers, who prevented it from making the treaty?

It is true that this was asserted to the noble lord by the British Plenipotentiary at Lisbon; (2) who, from the especial attention which he paid to the political events which had taken place in Portugal since 1836, and from his intimate knowledge of them, was in a position to know that *no faction*, whatever might be its *political composition*, had ever interfered, or possessed any influence in the affairs committed to my charge: and the said Plenipotentiary may almost be cited as a witness, that neither hostility in the open field, nor the dagger of the assassin, would cause me to deviate from the path which, after these events, I had deemed it my duty to pursue.

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(1) *Class B*, 1838-9, page 182.

(2) *Vide Parliamentary Papers already cited.*



It is therefore evident, that the real facts were totally contrary to the representations made of them in the British Parliament. But even had that representation been true, it would have conferred no legitimate right on the British Government to proceed according to the proposition of the noble lord.

The Portuguese Government cannot, and ought not, to be censured, because Lord Palmerston was pleased to set aside the labours which had been performed, and the stipulations already agreed to by the British Plenipotentiary, in order to substitute others in their place, prepared in his cabinet, and presented to the Portuguese Government with the arrogant intimation, that they were to be accepted *without discussion, without alteration, and without delay*; to be embodied in a treaty, and to become law for the subjects of Portugal.

With the noble lord therefore, and with him alone, rests the responsibility of having prevented the conclusion of the treaty, by attempting to impose conditions to which, as his Excellency had reason to expect, the Portuguese Government could not consent.

And because the Portuguese Government would not consent to subscribe to its own dishonour, and to betray its duty, by recognising, in fact, that the British Government might impose a treaty on Portugal containing stipulations highly injurious to her interests, (thus renouncing her independence) the noble lord employed towards a friendly nation the language of insult and invective, and proposes unjust and violent measures against her!!!

Were I to attempt to follow the example of the noble Secretary of State, when he created in his own imagination the motives to which he attributed the conduct of Portugal, I might also say, and I should not be at a loss for facts in support of the assertion, that his behaviour in this negotiation was intended to render it impossible to agree upon a treaty, in order to have a pretext—plausible in appearance—for railing at the Portuguese Government, from motives foreign to the negotiation (which I shall be excused from mentioning here) in order, from the same motives, to inflict a species of vengeance, without the evidence of injustice and oppression raising a clamour in the civilized world, in Great Britain, and in Parliament, against the proceedings of the noble lord; to establish a precedent, fruitful in its consequences, for the British Government, by means of Parliament, to legislate for the subjects of Powers independent of the Crown of Great Britain; and, lastly, to obtain, as it was hoped, on a government measure, a unanimous vote of the two Houses of Parliament; which would have been the more agreeable, as during the session the ministerial majorities had been very insignificant.

I have already said, and I now repeat, that on rejecting the treaty drawn up in London, I offered to sign the treaty which had been adjusted with Lord Howard, leaving the additional article for a separate negotiation. It is therefore evident, that the Portuguese Government was ready to conclude with Great Britain a new treaty

for the suppression of the Slave Trade, which should be in harmony with existing circumstances.

But the Treaty presented by Mr. Jerningham, could not as I have already said, be accepted by the Portuguese Government, even supposing it had been presented in the usual diplomatic manner, without many of the conditions which it contained being first expunged, and many others inserted, which had already being discussed and agreed upon with Lord Howard. (1)

It contained, for example, 1st. a complication of clauses which, if admitted, would quickly ruin the *lawful* trade and navigation of the Portuguese dominions in Africa, and give to the Commanders of the British cruisers the power of harassing the said commerce and navigation, as also the Portuguese colonies in that part of the world; which has already been frequently done by the said Commanders, although such a course is expressly prohibited by existing Treaties.

2nd. The perpetuity of the Treaty *in all its conditions*, which was another requirement of the British Government.

Portugal, by Art. 1. of the Treaty negotiated with Lord Howard de Walden, had consented that the Slave Trade should be *for ever abolished*, for the subjects of Portugal, in all parts of the world; but she ought not to renounce the right to require its revision at the expiration of a certain period, and to suspend any condition, which, without prejudice to the principle of the perpetual suppression of the traffic, experience should have shown to be injurious to her interests. Now in the Treaty and its annexes, which form an integral part of it, are a great number of various and minute provisions, respecting the manner of exercising the right of search, the form of process and judgment of the Mixed Commissions, the treatment of free negroes, and other essential objects. For this reason it was stipulated, in the Treaty negotiated with Lord Howard, that the said Treaty might be revised at the end of ten years. By this arrangement, which did not affect the efficacy of the Treaty, Portugal preserved a right which she could not surrender, without putting it in the power of a foreign state to harass and annoy her: not even reserving to herself the hope of a remedy, which, in case the Treaty were perpetual, would depend upon the will of the Government to whom she made the concession.

The little attention paid to the repeated complaints by the Portuguese Government of the conduct of some of the British cruisers; and the mode in which Lord Palmerston pretends to interpret the former Treaties, are further reasons why the Portuguese Government should never consent to renounce the right of being able to revise the Treaty at the expiration of a certain time.

Each Government is the best and only judge of what it suits it to

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(1) *Vide Note of 6th October, 1838: Documentos Officiaes, page 133.*

concede to another Government; nor can it form a just ground of accusation against any Government, that it does not agree to whatever may be proposed for its acceptance, and still less that it will not accept *without the slightest alteration or delay*, a Treaty, to the drawing up of which it was no party, when the *drawing up* is an object of the greatest importance in diplomatic documents, especially in one of this nature, which includes a great number of stipulations, capable of being easily transgressed; as those frequently have been by the British cruisers, which are contained in the Treaties between Portugal and Great Britain.

It is necessary that the stipulations should be drawn up with that care, as to leave no room for a repetition of excesses, irregularities, and acts of rapacity, such as the following, which I quote as an example:—

The habit in which the Commanders of the British cruisers have been, of appropriating to themselves various articles found on board the vessels previous to their condemnation. Also “of the enlistment of the Slaves into the British Military service, prior to the Adjudication.” (1)

That of the cruisers of the Gulf of Benin, of putting the crews of captured slavers on shore at the Portuguese Islands of St. Thomas, and Principe, notwithstanding the remonstrances of the inhabitants and authorities of those Islands, and the repeated complaints of the Portuguese Government to that of Great Britain. This they did principally with a view not to diminish by their maintenance the value of the prize. (2)

That which is reported by a Portuguese Member (3) of a Mixed Commission at Sierra Leone, of the Commander of a British cruiser having captured a Portuguese vessel, which he took to that Colony, where he himself bought her, previous to her being adjudged a lawful prize, at the price of £600 sterling, and immediately after took her to the Cape de Verd Islands and sold her for £1000; and the said vessel being subsequently declared by the Commission *not to be a lawful prize*, the £600 were given up to the owner, the said Commander illegally gaining the remaining £400.

From official documents laid before Parliament, I will extract the fourth example. In September, 1837, the Commander of a British cruiser observed lying at anchor, in the Benin river, a vessel bearing the Portuguese flag. This vessel, which was called the *Camoens*, not having slaves on board, could not be captured according to the stipulations of the Treaties; but the British Commander carried her crew, and that of another vessel lying in the same river, on board

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(1) *Class A*, 1838-9, pages 2, 3, 94, 145, 169, 201.

(2) *Vide Documentos Officiaes, already cited.*

(3) *Figanière—Descripção, &c. e trabalhos da Comissão Mista de Serra Leoa* pag. 87.

his own ship; and, declaring them to be pirates, he kept them there during eight days, fastened together and chained hand and foot. He also put in irons the consignee of the Camoens, whom he obliged to write a letter to the chief of the negro village of Bobim, on the banks of the Benin, to ship some slaves on board the said vessel. The negro chief did so, the embarkation being made in the sight of the British Commander, who, having verified the shipment, caused the vessel to be seized, and afterwards carried her to Sierra Leone, in the hope that as she was taken with slaves on board, the Mixed Commission would declare the Camoens a lawful prize—The captured vessel was so ill prepared for the voyage, that half the negroes on board died for want of food before reaching that port.

The Mixed Commission, before which these facts were proved, decided the vessel not to be a lawful prize, and granted the owner an indemnity of £1734 sterling. (1)

This is a case of sordid avarice and iniquity, which, with others of a similar nature, it is necessary to guard against in the drawing up of the Treaty, in order that they may not be repeated; which would certainly not have been accomplished by that which Lord Palmerston called upon the Portuguese Government to accept *without the slightest alteration*.

But it is in the Convention of 1815, concluded between Portugal and Great Britain, in virtue of which Convention this latter power bound itself to pay the former the sum of £300,000 sterling, in compensation for the losses sustained by the trade of Portugal, from 1810, to the 1st June 1814, in consequence of illegal captures, by British ships of war; and in the Treaty made with Spain in 1817 (2) by which Great Britain paid £400,000 sterling, for a very similar reason—that is found the strongest proof of the spirit of avarice which actuated the Commanders of the British men-of-war, who in so short a space of time made captures to the amount of so many millions of cruzados, besides the large sum awarded by the Mixed Commission established in London, for illegal captures made subsequent to the 1st June 1814.

What has been said will suffice to prove the necessity of the stipulations of Treaties for the suppression of the Slave Trade being drawn up with the greatest clearness and precision, that they may not furnish a pretext to the Commanders of cruisers to insult, harass, and capture, the ships of other nations.

## SECTION V.

Lord Palmerston, referring to Portugal, likewise said, “so far from

(1) *Wm. Brown Oliver, Lieutenant and Commander of her Majesty's Schooner "Fair Rosamond."* Class A, 1838-9, page 15 to 26.

(2) *Hertslet's ibid, Art. 3, and 4.*



“abolishing the Slave Trade, she has substituted her slave-trading flags in the place of all the slave-trading flags in the world” (1)

Facts, however, are opposed to this assertion, and many of them are recorded in the papers presented to Parliament already cited; from which it appears, that the Portuguese flag is not the only one employed in the traffic; but that there are also many others, such as the Spanish, the American, the Monte Videan, the Brazilian, and the Russian. This was also asserted in the House of Lords, by another member of the British Cabinet, the first Lord of the Admiralty.

The documents referred to also mention, that Austrian and Tuscan vessels are engaged in transporting negro slaves from Egypt to Turkey.

It must also be remembered that the time has not long gone by, when the British Government complained, “that the detestable traffic in human flesh was carried on principally under the French flag, whether it floated over vessels belonging to France, or protected those belonging to foreigners.” (2)

Thus therefore, if the noble Secretary of State, in his speech, had been desirous frankly to state to Parliament the causes of the increase under the Portuguese flag, of the traffic north of the Equator, where it has been abolished by Portugal ever since 1815, even wishing at the same time to exculpate the Governors of the British Colonies, in the neighbourhood of which the increase has taken place, and the Commanders of the cruisers in those seas; whose conduct can be attributed only, either to their having insufficient means at their disposal, for putting down the trade, or to their negligence of their duty, or to their connivance with the traders—he might say, that since the Treaties of 1831 and 1833, between France and Great Britain, the traders had abandoned the French flag; and that since the Treaty of 1835 between Great Britain and Spain, in which it was stipulated that vessels should be liable to seizure in which should be found certain articles indicative of their being employed in the trade, although there might be no slaves on board—many of the traders who previously made use of those two flags, took to adopting the Portuguese; because under the Treaty of Portugal with Great Britain, a captured vessel cannot be condemned as a lawful prize unless she shall be found to have slaves on board.

This is the real and only cause of the increase which has taken place of late years, in the number of vessels sailing under the Portuguese flag; a cause, which the Treaty negotiated with Lord Howard would have removed; since that Treaty contained a clause similar to that in the Treaty between Great Britain and Spain.

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(1) *The Mirror*, *ibid.*

(2) *Chateaubrian—Congrès de Verone.*

The noble Lord might also have said, that there was a house at the Havannah, which engages to furnish the slave ships with Portuguese papers; (1) and have added, that in July 1838, the British Judge of the Mixed Commission in that city informed him, that "with regard to the use of the Portuguese flag, it is said that most of the vessels either have no papers at all, or that the papers are "forged."

And also, that there are papers which, though not false originally, are nevertheless so as regards the vessel making use of them; having belonged to other vessels, which have long since ceased to exist; such papers being sold by their former possessors, to be used by vessels of similar size.

In the papers laid before Parliament, there is an example of the Portuguese papers of a vessel named the *Duqueza de Bragança*—being transferred to another vessel, which had formerly been French, and afterwards Spanish; and which then, under that name, and with the Portuguese flag, engaged in the Slave Trade, till at length she again became Spanish. The same Portuguese papers being transferred at the Havannah to an American ship, this latter took the name of the "*Duqueza de Bragança*," and sailed under the Portuguese flag; notwithstanding this was prohibited, by virtue of the decree of the 16th January, 1837. (2)

He might also have further said, that in September, 1838, the British members of the Mixed Commission had informed him, that "during the two months of July and August. . . . (from Havannah to Africa) there were no fewer than seven sailed under the American flag; thus giving much reason to fear, that all your Lordship's efforts to suppress the traffic under the cover of the Portuguese flag will be unavailing, when the traders can so easily procure the protection of the American." (3)

According to the information transmitted by the said Commissioners, this is practised by vessels sailing from Cuba under American colours for the ports of Africa, where, during their stay they retain the American flag, which they change for the Spanish or Portuguese only when just about to sail, laden with slaves, for the West Indies; when they make a counterfeit sale of the vessel, for which they are already furnished with the necessary papers from the Havannah. This is done for fear of meeting and being searched by an American ship of war, by which they might be captured.

The noble Lord might also have said, that on the 7th of April, 1838, the Commissioners of Sierra Leone wrote to him as follows; "we have lately had frequent occasion to remark on the increased activity of the Slave Trade in the immediate vicinity of Sierra

(1) *Vide Parliamentary papers, Class A, pag. 115.*

(2) *Ibid, Class A. (Further Series) pag. 108.*

(3) *Ibid Class A. p. 131.*

"Leone." (1) That on the 7th May of the said year, the same Commissioners referred to the "indubitable evidence of the system, and extent of the Slave Trade carried on in Brazil by nominal Portuguese subjects." (2) And that on the 31st December following, when transmitting a list of the vessels condemned there in 1838, amounting to thirty, eleven of which were under the Spanish, and nineteen under the Portuguese flag; the said Commissioners say "fifteen out of the 30 vessels, which came before us last year, either were captured, or took on board their slaves, within the former narrow boundary" (westward of Cape Palmas)... "and the whole, or very near the whole, of the Slave Trade carried on north, or rather west of Cape Palmas, is for the supply of the island of Cuba, and generally on account of Havannah merchants.... "Portuguese Trade, properly so called, there is none." (3)

These passages, extracted from the official documents referred to, make it evident that the assertions "that in the Slave Trade the Portuguese flag had supplanted every other," and that "it was *prostituted* by every vessel which for that purpose traversed the ocean," are totally contrary to the real facts, as the noble Lord, who made them, might have concluded from the said documents.

Even supposing that they were true, this would furnish no just ground for accusation against the Portuguese Government, which cannot be held responsible for acts done by individuals contrary to the laws of Portugal, beyond the sphere of action of those laws; and if arguments of this kind were allowed to have any weight, the noble Lord could not avoid admitting, that the British Government is responsible for the crimes committed beyond its jurisdiction, by the English frequenting the islands of the South Sea: crimes, for the greater part, unknown in Europe, but of which some idea may be formed, by the deposition of witnesses, who were officially examined in England, (4) by which it appears, that in the island of New Zealand alone, in which there are resident some thousands of British subjects,—and the ports of which are frequented every year by from 100 to 200 ships—the captains and crews of English vessels have frequently committed the most atrocious crimes against the *Aborigines*, (and sometimes against their own fellow countrymen); such as treacherous assassinations, and poisonings; going even to the length of trading in the tattooed heads of savages, whom they excited to cut them off, in order to furnish them with a supply which they might afterwards sell at high prices as objects of curiosity.

Lord Palmerston had in his possession all the documents to which I refer, and therefore could not be ignorant, that along a considerable portion of the African coast, no traffic was carried on for account

(1) *Ibid Class A. p. 36.*

(2) *Ibid Class A. p. 44.*

(3) *Ibid Class A. (Further Series) page 152—And Class A. page 36, and 44.*

(4) *The British colonization of New Zealand, 1 Vol., London, 1837.*

of Portuguese. He also knew that the Portuguese flag, fraudulently as it was used, was not the only one adopted by the slavers; and that these had every facility for obtaining, in order to carry on the trade, the flags of other nations—that of America among the rest.

Notwithstanding this, he exerted himself to obtain the sanction of Parliament to the Bill which he brought in, which may be characterized as *offensive to Portugal, and inoffensive to the traders*; who, warned by the discussion, will have already caused the Portugal flag to disappear from their vessels, and supplied its place by some other, which shall be respected by the British cruizers; this change of flag being, as regards the traffic, almost the only result to be expected from the measure. In other respects, however, it may be productive of the most important consequences, as was shewn during the debate which took place in the House of Lords—when the dangerous nature of the Bill was placed in its true light. The manner in which the Prime Minister of Great Britain expressed himself, is certainly deserving of most serious attention, when in that House, alluding to the debate, he said, “the opposition to this measure will do a world “of evil—will produce an infinity of mischief:” (1) doubtless recognizing the truth of the arguments (to which he did not reply) which had been advanced by the most illustrious man in England against the Bill. Those arguments were as follows:—  
 “What will be the consequences of this measure? That Portugal  
 “must resist it; for, if she submit to the legislature of this country,  
 “she will no longer be an independent nation. By that course she  
 “must stand or fall. The legislature of this country cannot give up  
 “their law, nor can the Portuguese Government submit to it. We  
 “were actually going to legislate for the subjects of Portugal; and  
 “I cannot help saying, that such an interference on the part of Eng-  
 “land would be both unwise and unjust. . . . . an invasion of her  
 “rights by an Act of Parliament directed against the subjects of  
 “that country, which Portugal would resist, even to the death, by  
 “every means at her disposal. . . . . Such an Act of Parliament  
 “as that which it was proposed to your Lordships to pass, would  
 “have been a complete novelty, and I could not see how it could be  
 “adopted by your Lordships, without occasioning such a sensation  
 “throughout Portugal, and throughout the world, as, without fail,  
 “must endanger some of the most important interests of England,  
 “and be productive of the most serious inconvenience. . . . . issued  
 “on the responsibility of the Government. . . . . The framers of the  
 “Bill have not sufficiently attended to the Treaties which have been  
 “contracted, and which are now in force. . . . . this Bill. . . . . I con-  
 “clude, was formed by persons who had no perfect knowledge of  
 “the Treaties that have, heretofore, been entered into. . . . . I think  
 “that this measure is one to which your Lordships cannot, with pro-  
 “priety, agree, if you entertain that respect for the rights of other

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(1) *The Times*, August 24, 1839; and *the Mirror*, *ibid*, House of Lords, 23rd. August, 1839: the speech of Lord Melbourne.



"nations. . . . . The Bill. . . . . still retains its criminal character—  
 "still contemplates a breach of the laws of nations—a breach of  
 "Treaties that have been entered into between England and other  
 "countries." (1)

The conduct of the Ministers who now direct the affairs of England, is very different as regards the Slave Trade, from that pursued by their predecessors.

The following is the manner in which one of these expresses himself in the House of Commons: . . . . . "it was to the light of experience, to the promulgation of wisdom, and not to the exercise of violence, or the influence of war, that they could look with any prospect of success, for the abolition of the Slave Trade. . . . . they did not think it right to force it upon other nations, at the expence of their honour, and of the tranquility of the world. Morals were never well taught by the sword. . . . . It took a considerable length of time before the abolition of the Slave Trade was adopted, even in this country of liberality, and other countries could not be blamed for not adopting it immediately, particularly when it was proposed to them in the shape of a *dictum*." (2)

In 1838 the British Government was not *asked* to put forth its energies in a manner incompatible with the independence of other nations; but it was the Government itself which asked Parliament to sanction a legislative invasion of the rights of independent nations; in the first place of the Portuguese, and eventually of all the Maritime nations of Europe and America; and this for the ostensible purpose of compelling the Portuguese Government, not to treat (for it had already, in May 1838, negociated a Treaty) but to accept a Treaty dictated by Lord Palmerston, with the regulations annexed thereto.

The noble Secretary of State further says, "not only has she (Portugal) not fulfilled her engagements with us,—not only has she retained her trade at the same point which it had reached when these engagements were contracted—but she has actually increased it." . . . . . (3)

The Slave Trade ever has, and ever will, continue to increase in direct ratio to the increase of riches and prosperity, and of the consequent demand for a greater number of labourers, in the countries into which the slaves are imported. This is what has taken place in Brazil, in Cuba, Porto Rico, and Texas. The Government of Portugal has nothing to do with this: and if, of late years, her flag has been used more than formerly, it is for the reason I have already stated; nor can its more frequent appearance in slave ships, to the north of the Equator (having been prohibited for four and twenty years in those seas) prove that Portugal has augmented the traffic in

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(1) *Speeches of Duke of Wellington on the Bill of Lord Palmerston: the Mirror of Parliament*—1st, 2nd, 15th, and 19th August, 1839.

(2) *Lord Castlereagh, House of Commons, 27th June, 1814.*—"The Parliamentary Debates." by T. C. Hansard, 1814, vol. 28.

(3) *The Mirror, ibid, House of Commons, August 8, 1839.*

slaves; but the contrary is shewn by the dispatch of the 31st Dec. 1838, before quoted, addressed to Lord Palmerston by the Commissioners of Sierra Leone.

I will, however, observe, 1st. That the British cruisers are empowered, by the Treaties, to capture Portuguese vessels engaged in the Slave Trade, which may be met with north of the Equator.

2nd. That in Africa, Great Britain possesses numerous Colonies in the neighbourhood of the places where the slaves are embarked—such as the River Gambia, the Isles de Los, the Bananas, Sierra Leone, Cape Coast Castle, Accra, the Island of Fernando Po, &c., &c; and in America, many of the West India Islands, lying in the direction taken by the ships which carry slaves to Porto Rico, Cuba, and Texas.

3rd. That she has in those seas a great number of cruisers.

4th. That at Sierra Leone, and at the Havanna, reside Mixed Commissions with British Judges, to adjudicate on the captured slavers.

And, in spite of all the means above mentioned, which Great Britain has at her disposal, the traffic has considerably increased north of the Equator; and, with such regularity is it carried on, that, for the purpose of promoting it, there exist, in various ports on the coast of Africa, permanent factories, the number of the principal being, even recently, as many as fourteen. (1)

It is calculated, that, from the River Pongo, there are annually exported 2,000 slaves; from the River Gallinas, 8,000; and so on, from the others, as far as the Equator—there being employed in this trade upwards of one hundred vessels.

The River Pongo is about five or six hours sail from the Isles de Los, and that of the Gallinas, a few hours more from the Bananas, dependent upon, and situate near to Sierra Leone.

It is surprising that, having in that quarter so many means destined for the suppression of the trade—such as Courts, instituted expressly for that object, and a large number of ships of war for the same purpose, the existence of those factories should have been permitted during so many years, and that some of them should supply themselves with goods from Sierra Leone, with which they purchase slaves; and above all, that the owners of Spanish factories at the River Gallinas should have purchased, *through their agents at Sierra Leone*, vessels condemned by the Mixed Commissions, with the intention, no doubt, of employing them afresh in the transportation of slaves. (2)

It is principally in the large and numerous rivers which empty themselves into the Gulf of Benin, that the most extensive traffic in

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(1) *The Colonization Herald, Philadelphia.*

(2) *Ibid, Class A. (Further Series), page 14.*

slaves is at present carried on, in spite of the neighbouring British Colonies on the Gold Coast, and of the strong fleet of cruizers, constantly on the look out, on that sea.

With all these facts before him, justice required that Lord Palmerston should not attribute to Portugal the increase of a traffic which Portugal could not prevent—it being carried on contrary to and beyond the jurisdiction of her laws, and with capitals not Portuguese; while, at the same time, British capital, British goods, and British speculators, were employed in the same traffic, carrying it on to a great extent in the immediate vicinity of the British Colonies—in places near to the residence of the Mixed Commissions; and, so to speak, in the face of the British cruisers, in quarters when these latter, since 1817, have possessed the right of capturing Portuguese vessels engaged in the trade.

Justice also required that he should state the true causes of the increase in the traffic, and not attribute to Portugal the crimes committed by some Portuguese, associated with Englishmen, Frenchmen, Americans, Brazilians, Spaniards, and others—each contributing, in their own way, to this abominable traffic: some finding capital; others furnishing vessels; others equipping them; others preparing flags and false papers; others supplying goods; others, in short, giving their personal services, either as captains or sailors of the vessels employed.

If, among all these various classes of criminals, there is any which is less guilty than the others, it is certainly the captains and crews, as being almost entirely composed of men without education, and who are satisfied with comparatively small profit. It is to this class that belong nearly all the Portuguese who are engaged in the traffic. The most criminal class—that which derives enormous gains from the trade—is that of the capitalists, and those who furnish the goods to be bartered in Africa for slaves. This class is the active power, and the sailors are but the mere instruments of their cupidity; to it belong many British subjects, as is proved by the incontrovertible testimony of British authorities, whom I am about to cite.

Mr. Gordon, British Chargé d'Affaires at Rio de Janeiro, wrote to Lord Palmerston, on the 21st April, 1838, as follows: "I regret  
"to have to add, that it appears probable, that much British capital  
"is engaged therein, even directly. Indirectly, many British houses  
"in this city have, for some time past, greatly assisted enterprises  
"for the nefarious end. Formerly, when it was believed that the  
"risk of being taken by British cruisers was considerable, no mer-  
"chant would sell the goods suitable for the African market unless  
"he received ready money for them; but since it has been perceived  
"that such risk is very small indeed, British houses have altered their  
"rule in this respect, and they now allow the slave-dealers to pur-  
"chase such goods as they have need of on credit—the debt to be  
"paid at the conclusion of the speculation they were employed  
"in. (1)

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(1) *Ibid*, Class B, page 369.

The British Judges of the Mixed Commission, resident at Rio de Janeiro, writing on the 14th July, 1838, to the noble Secretary of State, said.—

“ In conclusion, we again advert to the indirect, *if it should not rather be called the direct*, interest which British merchants and British capital, in Brazil, derive from the Slave Trade. With what but British goods is the African market, the freight which is to be bartered for the slave, supplied? With what, but slave-labour, and the works, originating in British capital and enterprise, carried on in this country? How are the various mines, which, but for similar support, would soon become inoperative, worked? Not by free, but by slave-labour.” (1)

The said Commissioners, alluding afterwards to the capture of vessels under the Portuguese flag—the *Flor de Loanda*, and others—which the cruisers carried into Rio Janeiro, said, “ The moment the seizures were known, claims for payment were abruptly pressed by persons calling themselves British as well as French merchants, on those who had taken their goods. The constant answer was, ‘ Go to the British Commissioners—let them release our vessels and property, and then, and not till then, shall you be paid.’ With this answer they were obliged to be content; and, indeed, we have been assured, that it is no uncommon practice, which however we do not undertake to vouch for as a fact, with some of the Commission-houses here, of *Liverpool, Leeds, Manchester, and Birmingham*, to sell their goods, intended for the African market, on conditional terms: the debt to be acquitted, in part, or in the whole, according as the adventure may ultimately prove successful, or otherwise.” (2)

The Mixed Commission of Sierra Leone, writing to Lord Palmerston on the 4th of June, 1838, spoke of “ British merchants at Sierra Leone purchasing condemned slave vessels, as agents for slave dealers.” (3)

The British Government formerly complained that vessels had been fitted out in the Tagus for the Slave Trade. It was with a view to prevent this practice that the decree of the 10th Dec. 1836, ordered that all vessels clearing out from ports in Portugal, the Azores, &c., for ports in Africa, situated to the south of the 20th degree of south latitude, should be inspected the evening before their departure; and that if any articles were found on board indicating an intention of their being destined for that trade, they should be seized, and their owners and affreighters punished; and that if they were only suspected of being intended for the said trade, their owners should be required to enter into a bond.

It does not appear to me, however, that a bond was required in Great Britain, from the owners and equippers of the numerous vessels which sailed from the Thames, the Severn, the Mersey, the Clyde, the Humber, and other ports in Great Britain, laden with manufac-

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(1) *Ibid*, Class A, page 171.

(2) *Ibid*, Class A, page 171.

(3) *Ibid*, Class A, page 4.



ture, destined *exclusively* for the Slave Trade, and which they carried to the ports of Brazil and Cuba, to the Danish Isle of St. Thomas, and other West Indian Islands, as well as to the British Colonies in Africa, and even to the ports where the trade is carried on, where there are factories on shore, or where the business is transacted on board the vessels themselves: in which ports some of the traders arrange the assortment of goods which they deem necessary for the purchase of slaves.

It is true that on their departure from British ports, those vessels do not carry hatches with open gratings; nor boards prepared for making second decks; nor an extraordinary quantity of casks for water; nor boilers larger than are necessary for the use of the crews; but they depart loaded with various goods with which slaves are purchased; they carry arms and ammunition, with which the negroes make war upon each other, for the purpose of making captives; and the chains, with which they are fettered in their passage across the ocean.

In order to give an idea of the magnitude and extent of the traffic, I will cite the work on the Slave Trade, published a few months ago in London, by Mr. Fowell Buxton, and (1) written with the benevolent view of ameliorating the condition of the unhappy Africans, and of putting an end to that traffic. The author calculates that there are goods to the value of £250,000 (or more than two and a half millions of Cruzados) annually manufactured in Manchester and other places in the county of Lancaster alone, of which he affirms "that the description of goods so manufactured were altogether unsuitable for any other market, save that traffic alone."

The same writer shews, in his ingenious calculations, that the quantity of goods exported in 1836, was sufficient to buy 187,000 slaves: in the purchase of which the above goods generally form one third of the payment. He further says, that in Glasgow, goods are fabricated, *exclusively* adapted for that trade; and that large quantities are also sent from Leeds, Birmingham, and Liverpool, for the same object.

He likewise calculates, that the fire-arms and ammunition, *of a quality only adapted for the Slave Trade*, which were exported from Great Britain to Africa in the same year, 1836, and whose official value was about £138,000 sterling, were sufficient to purchase 34,000 slaves; so that, adding together all these quantities of goods annually exported from Great Britain, they would suffice for the purchase of 250,000 slaves!

Captain Fair, of the British Royal Navy, a man of great experience in the service against the Slave Trade, says in a pamphlet (2) which he published in 1838, that a great many slavers go to the free port of the Island of St. Thomas to load goods to carry to Africa, and that those goods are almost entirely of British manufacture.

(1) *The African Slave Trade*, London, 1839, pages 34 to 37.

(2) *A Letter to the Honourable W. T. Fox Strangways, Under Secretary of State for Foreign Affairs.*

Compare the value of goods adapted to the purchase of slaves—such as certain cotton manufactures, which were exported from England in 1836, to those countries in which the Slave Trade does not exist—Mexico, for example—with that of the same goods exported to Brazil, from whence they are re-exported to Africa, and it will be found, taking into account the respective population of each State, that Brazil imported a much larger quantity of the said goods than, without the Slave Trade, she could have taken. (1)

It has been also stated that the value of the goods annually sent from Rio de Janeiro, for the same purpose, amounts to £700,000 sterling, (more than seven millions of cruzados) and are almost all of British manufacture. (2)

From the numerous depôts of those goods which exist in the ports of America, and in the British Colonies of Africa, there must be sent, for the purpose of that traffic, quantities proportioned to its immense extent; to which must be added, the exportation to the ports of Eastern Africa, of goods sent to Bombay, Surat, and other ports of British Asia, which are largely used in the Slave Trade; and although a Convention was made in 1822, between the British Government and the Imam or Sultan of Muscat, for the suppression of the trade in the ports of Africa, situated to the north of the Cape Delgado, belonging to that sovereign; this Convention refers solely to the trade carried on with Christians, Mussulmen being still allowed to ship many thousand slaves every year from those ports, to be sent to Asia; and, from information which I have received, Christians, through the medium of Mahometans, have continued to carry on the trade on that coast.

The amount of capital is, therefore, enormous, which is at present employed by British subjects in the horrible traffic of Slavery; and it may perhaps be said, that the sum annually applied to this trade by Great Britain, far exceeds that by any other nation. The profits derived by British subjects are proportionate to the amount which they employ; and these profits contribute to the prosperity of several towns, and to the opulence of many families: and if the greater part of them are not acquired by direct speculations, they are not the less the result of the loss of liberty, the sufferings, and toil of the captive negroes.

Such profits are much more secure than those of the adventurers directly engaged in the Slave Trade—which, being subject to many contingences and great risks, is a species of lottery, in which many pay in their persons the penalty of their avarice; others are entirely ruined; and a few enrich themselves, in a manner which excites horror.

The circumstances already alluded to, of a house at the Havanna having, in 1838, made a net gain of 70,000 dollars by a single voy-

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(1) *Tables of Revenue, Commerce, &c., presented to Parliament—1838.*

(2) *The Times, September 25th, 1839.*

age of one of their vessels; and another, 200,000 dollars, also by a single voyage, which took scarcely four months, are examples calculated to excite speculators to venture on renewed undertakings of the same kind.

Bearing in mind what has been said, it would not be extraordinary in any one (who should adopt the mode of reasoning of the noble Secretary of State) to say that the British Government was accessory to the continuation of the Slave Trade, for not having taken any necessary measures to prevent the fabrication in, and export from, Great Britain, of goods which are destined *exclusively for the purchase of slaves, and absolutely inapplicable to any other purpose*: (1) that the said Government encourages this detestable traffic throughout the globe, in not having proposed to Parliament a repressive bill on this subject, when it might expect that the people of Great Britain, and their representatives, would unanimously adopt it by acclamation—since, having paid twenty millions to purchase the freedom of 800,000 negroes, they would think lightly of foregoing the profits now derived by British subjects from the sale of manufactures, which nourish the wars carried on in Africa for the purpose of reducing to slavery many thousands of its inhabitants, and with which are annually purchased from 200,000 to 300,000 of those who are taken captives.

On the contrary, the British Government allowed itself to be forestalled in such an important measure, by the King of Naples, who lately published a decree, (2) imposing *penalties, even on those who had taken any part in the fabrication of articles destined for the Slave Trade*.

The noble Lord says, “We have, for more than four years, endeavoured to persuade Government after Government, in Portugal, to conclude a treaty, which, with her consent, might enable us to accomplish the purpose that she had bound herself, by her own means, to effect; but we have endeavoured in vain.” (3)

This assertion, on which the noble Lord founded his arguments to shew the necessity of the Bill proposed by him, is entirely destitute of the slightest foundation: because a Treaty, with its proper annexes, was negotiated between myself and Lord Howard; and on the 22nd of May 1838, they were agreed upon, and already drawn out, to be signed by the Plenipotentiaries, when the noble Lord left Lisbon for London; there remaining only to be concluded the negotiation of the additional article.

The official correspondence, before mentioned, clearly proves that *even on the 21st February 1839*, the Portuguese Government was prepared to sign that Treaty, and to leave to a separate negotiation the additional article referred to. Lord Palmerston however,

(1) *Fowell Buxton*.

(2) *Giornale de Due-Sicilie*—3 de Nov. 1839.

(3) *The Mirror*, *ibid*, August 8, 1839.

desired to alter the conditions; he wished to introduce fresh ones, not to be met with in any Treaty; and to strike out others, which had been already agreed upon, and which had been admitted into every Treaty relating to the Slave Trade; and by the form in which he drew up his Treaty, he gave it such a complexion, that had it been put into practice, it would have been highly detrimental to the trade, navigation, and colonies of Portugal; and in requiring the Portuguese Government to accept that Treaty without delay or alteration, he, by his own proceeding, prevented its being concluded.

He further says "the Government of Portugal—upon pretexts "the most frivolous, upon objections the most unfounded, upon allegations totally destitute of truth,—have rejected the proposals "which we have made, and, by every contrivance, have spun out "the negotiation, for the mere purpose of avoiding the termination "of the question." (1)

The examination of the speech of the noble Lord, in which I was proceeding, will shew clearly whether it was he, or the Portuguese Government, who made use of allegations totally destitute of truth; and therefore the phrase which he made use of, does not require any comment.

The noble Lord went on to mention the proposals he had made to the Portuguese Government, and the answers which he had received.

He stated that he had proposed "that the Slave Trade should be "declared piracy—not subjecting it, however, to the penalty of "death, but to a severe secondary punishment, and that the Portuguese Government refused its consent thereto." (2)

It is true that the Portuguese Government refused to accede to this new proposition—*presented at the end of the negotiations*—and for the following reasons:

1st. Because by not subjecting the Traders in Slaves to the penalty of death, but only to that of transportation, as demanded by the British Government, they would become punishable with less severity than they would have been under the decree of the 10th December, 1836, which, in addition to transportation, renders them liable to hard labour, heavy fines, &c.

2nd. Because the Slave Trade not being declared piracy, this name ought not to be applied to it in the Treaty, seeing that in diplomatic documents of that important nature, it is essential to avoid the insertion of words, which at a future period, might give rise to interpretations and pretensions, contrary to the spirit of the said Treaty.

3rd. Because the said declaration appears useless for the suppression of the traffic, when it is observed, that for many years that trade has been classed as piracy by Great Britain, the United States

(1) *The Mirror, ibid, August 8, 1839.*

(2) *Ibid, August 8, 1839.*



and Brazil; and that, notwithstanding, numbers of Brazilians, Americans, and Englishmen have not been deterred from engaging in it, either directly or indirectly.

Nevertheless, although in Europe, Great Britain is the only power which has declared the Slave Trade to be piracy; and though her having given a designation to a crime, is not sufficient reason for her requiring another nation to apply to it the same term, yet out of deference to the Government of Great Britain, that of Portugal declared itself ready to accede to any resolution which might be adopted by the great powers of Europe, possessing colonies, relative to declaring that trade to be piracy; and the British Plenipotentiary admitted that this declaration was sufficient, as was plainly demonstrated by the Baron da Ribeira de Sabrosa, in his note of the 11th September last, addressed to Lord Howard de Walden, and as might also be inferred from the Treaty negotiated in 1838, in which this denomination was not applied to that trade.

An attempt was also made to persuade the British Parliament, that having, by the Convention of 1817, promised to assimilate her legislation *as much as possible*, (1) to that of Great Britain, *then in force*, against those engaged in the *illicit traffic in slaves*, Portugal was bound now to declare that traffic piracy, seeing that Great Britain had so declared it.—But it is evident that even had Portugal bound herself, without the clause—“*as much as possible*”—the obligation to declare the Slave Trade piracy could not now exist, inasmuch as in 1817, that trade was not regarded as piracy by the laws of Great Britain. Besides which, as I have already asserted, since 1836 the laws of Portugal impose severer penalties on slave dealers than those inflicted at present by the laws of England.

And it was on such grounds as these, (evidently fictitious) that Parliament was asked to give its assent to a Bill, which sanctions acts of piracy; since piracy consists in illegally seizing on the high seas the property of another; and illegal will be all the seizures which may be made in consequence of that Bill, seeing that the Government of Great Britain possesses no right whatever to legislate for the subjects of an independent nation. And if Lord Palmerston fancies that he is supported by such a right, if he imagines that his Bill is not an infraction of the laws of nations, he is bound to prove it, by putting the Bill in force, not against the Portuguese only, but also against the French, the Russians, and the citizens of the United States of America.

## SECTION VI.

The noble Lord further said, that “he proposed to extend the “right of search.”

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(1) *Article 3.*

This is true; but it is no less so, as is shewn by the Treaty arranged with Lord Howard, that the Portuguese Government had acceded to that proposition; so that there was no ground for complaint on this point.

He complained that the Portuguese Government required "to make the Treaty limited in point of time, for the obvious purpose, that, when the Treaty shall have expired, they may re-establish the Slave Trade in all its vigour." (1)

This grave accusation is so totally destitute even of apparent foundation, that it is sufficient, in order to refute it, to cite the Treaty negotiated by me with Lord Howard—the 1st article of which declares the Slave Trade to be abolished for ever, for the subjects of both Crowns. Lord Palmerston ought to have borne this stipulation in mind, when he made an accusation in Parliament against the Portuguese Government, to which the term gratuitous is the mildest that can be applied.

I have already assigned a reason why Portugal, in agreeing to declare the abolition perpetual, ought not, therefore, to subject herself to declare perpetual the many minute stipulations, intended for carrying into effect the suppression of the traffic, and which are naturally so variable, that the British Government itself has proposed an alteration in some one or other of them, in every draught of a Treaty which it has presented to that of Portugal. It is therefore not just that the latter should be deprived of the right, at the expiration of a term agreed upon, of suspending those stipulations, which experience might have shewn her to be injurious to her interests, in order that they might be revised by mutual consent.

The highly irregular proceedings of some of the Commanders of British Cruisers, *to which I have already alluded*; the little attention paid by the British Government to complaints made on that account by the Portuguese; and the interpretation attempted to be given to some of the conditions of the existing Treaties, render it incumbent on the Portuguese Government not to contract obligations which may prove hereafter to be contrary to the interests of Portugal, or be productive of misunderstanding between the contracting parties, without at the same time reserving the power of remedying for the future any of those inconveniences which may not have been foreseen, at the time of making the Treaty.

As Great Britain concluded a Treaty for ten years with France for the suppression of the trade, and as she has concluded a similar Treaty with several other powers for a like period, there was no reason why Lord Palmerston should refuse to consent to a Treaty for ten years with Portugal, or that he should insist upon her making one for a perpetuity.

As to the intention, imputed by the noble Lord to the Portuguese Government, of hereafter re-establishing the trade in all its vigour,

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(1) *The Mirror, Ibid, August 8, 1839.*

it is an assumption which, with equal reason, might be applied to every other Government, which has entered into Treaties of a temporary duration for its suppression, and in which number is comprised also that of which the noble Lord is a member.

Following the example of the noble Secretary of State, I might also *suppose* that the British Government, in the Treaties relative to the abolition of the Slave Trade, had not only in view the welfare of the negroes, but also to acquire by that indirect means, the right of inspection and of police in all the seas, to be exercised by its navy, the numerical superiority of which renders it impossible that any stipulations of reciprocity should be realized in practice; and also, by means of the Mixed Commissions, and of the regulations concerning negroes, to acquire a certain interference in the internal administration of the States with which it has Treaties; an interference which might be productive of important consequences in the colonies, particularly those appertaining to the Crowns of Portugal and Spain.

The noble Lord further says, "we propose to continue the Mixed Commissions—"No," say they;".....

In reply I have to remark, that in the 5th Article of the Treaty negotiated between Lord Howard and myself, it was stipulated that there should be two Mixed Commissions; and the Annex B contained the regulations respecting them: that assertion is therefore contrary to fact.

I would observe that, according to the Convention of 1817, the ships condemned by the Mixed Commissions, were to be sold by public auction, as also their cargoes, excepting the slaves, the proceeds being *divided between the two Governments*; and that Lord Palmerston, by his Bill, has adjudged to the British Government all the money arising from such sales; seeing that the vessels, instead of being tried by the Mixed Commissions, are to be taken before the British Court of Admiralty; according to the regulations of which a certain per centage on the prizes is to be appropriated as *droits* of Admiralty.

The noble Lord goes on to say "we ask them to agree to a regulation by which captured negroes shall be placed under the superintendence of the Mixed Commission.....Portugal has refused." (1)

In order to show that this assertion is also destitute of foundation, it will be sufficient to observe, that by the 2nd Art. of the Annex C, forming part of the Treaty negotiated with me by Lord Howard, it was stipulated that as soon as a vessel should be condemned by the Mixed Commissions, in consequence of slaves having been found on board, these latter should be delivered over to the chief civil authority of the place where the Commission might reside, by which the

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(1) *The Mirror, Ibid, August 8, 1839.*

vessel had been condemned, according to the conditions of 1817, in order that, in conformity to the 12th Article of the negotiated Treaty, there might be faithfully secured to the liberated negroes;

1st. The enjoyment of their freedom and good treatment.

2nd. Their education in the Christian religion, morality, and civilization.

3rd. Competent instruction in the mechanical arts.

And by Articles 5 and 6 of the same Annex C, the Commissioners were invested with the necessary superintendence over the treatment of the liberated negroes. According to the new legislation, however, of the noble Lord, they are deprived of all superintendence of the greater part of the liberated slaves, inasmuch as the majority of the vessels, under the Portuguese flag, captured by the cruisers, will have to be judged in the West Indies, in Guyana, and other British Colonies, where a great deficiency is experienced of labourers for agricultural operations.

The liberated negroes, who may be taken to those places, will supply that deficiency. This method of providing labourers has been already recommended to Lord Palmerston by the British members of the Mixed Commission of Rio de Janeiro: who, in one of their dispatches, suggest "the transportation of the liberated Africans to any of her Majesty's Colonies, which may now be feeling the want of hands for agricultural purposes." (1)

Detained in America, there will remain no hope to these negroes of ever returning to their native country, which they might have had, if they remained in Africa. The philanthropist may lament the situation in which they are thus placed, but the planters of those Colonies will have cause to be satisfied, at thus receiving a frequent supply of labourers, of which the number will not be inconsiderable; seeing, that in Sierra Leone alone, the Mixed Commissions, since their institution in 1819, have liberated more than 48,000 negroes. (2)

In this manner, the planters of the British Colonies, after having received a heavy compensation for the manumission of their slaves, will acquire negroes, who, for a certain term of years, will perform, under the nominal title of free men, the same labour which was formerly done by their slaves, with the further great advantage of obtaining them for nothing; while the planters of Brazil and Cuba are obliged to purchase them at a high price. In this manner, the British planters, without any expence to themselves, will profit by the guilt of the Slave Traders, at the same time that they escape the odium of having committed the crime; and their consciences, on this score, will be equally easy; a species of monopoly will also be established in their favor, of the labour of the liberated negroes,

(1) *Vide Parliamentary Papers, Class A, page 159.*

(2) *Ibid Class A. p. 4, 5, and Class A, (Further Series), page 3, 4—says, the numbers to 1838 were 48,359, besides 1,417 at the Colonies in the West Indies.*



which may be regarded, while it lasts, as the labour of so many slaves. This is a profitable consequence of his Bill, which the noble Lord did not allude to in the speech with which he introduced it into Parliament. It is therefore evident that a large portion of the liberated negroes will be placed beyond the superintendence of the Mixed Commissions—which is just what the Portuguese Government, in the same speech, was accused of desiring.

The noble Lord further says, “as soon as they (the Portuguese Government) have agreed to one proposition—and as soon as, by some modification, we have got rid of one objection—they have started another. In short, there is, on the part of Portugal, an obstinate and rigid determination not to make any Treaty with us, to give any facility whatever to the great purpose we have in view. Then,” continues the noble Lord, as a conclusion from the foregoing, “it is necessary that we should procure them by our own means.” (1)

When the noble Secretary of State, in August 1839, made this accusation against the Portuguese Government, he had in his possession the Treaty, the negotiation of which had been concluded between Lord Howard and myself in May 1838; by which Portugal made greater concessions than she had done in 1815 and 1817; and also greater than have been made by nearly all the powers with whom Great Britain has entered into Treaties in this respect. He was equally aware of the proposition which I made in February 1839, to the same Plenipotentiary, to confirm that Treaty, *independently of the additional Article*, which might remain over for a separate and future negotiation. The assertion is therefore totally incorrect, that the Portuguese Government had obstinately refused to make the Treaty. If there were any obstinacy, it was on the part of the noble Lord, who refused to confirm the negotiation which had been concluded with me by the Minister, whom he had furnished with full powers for that purpose.

The conclusion, therefore, which he drew from that assertion, “that the British Government should have recourse to its own means,” is forced, and devoid of the slightest appearance of justice; the violent measure proposed to, and adopted by Parliament, being, besides, uncalled for and unnecessary; for if the noble Lord had confirmed the negotiated Treaty, the *ostensible* grounds on which he pretended to found the necessity, would have ceased to exist.

But this measure may be productive of another result of transcendent importance, and fertile in consequences; viz. that of serving as a precedent hereafter, whenever it is pretended to apply the laws of England to the subjects of other nations, independent of her crown. A parallel to such a measure can be found only in some of the *Senatus Consulti* of Napoleon Bonaparte.

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(1) *The Mirror, Ibid, Ibid.*

The noble Lord also said, "the conduct of the Portuguese Government, has, in this respect, disintitiled them to the esteem of all mankind." . . . . .

This assertion will not surprise those who bear in mind the threat, already alluded to, that in the event of Portugal not acceding to the demands of the noble Lord, the most violent language which might be uttered in Parliament against Portugal, would be heard with applause, and would go forth to the world without reply ; as the latter would not be heard beyond the confines of Portugal. (1)

The fact, however, is, that this noble Lord, as Minister for Foreign Affairs, was the very member of Parliament, who, by his position might be expected to possess the most perfect knowledge of what had taken place in this negociation ; and, for that reason, to obtain implicit credence in whatever he might say in reference to that subject ; that he took advantage of his peculiar position, to heap accusations and reproaches on the Portuguese Government, and to give such a representation of facts, as was, in a great measure, at variance with what had actually taken place ; that he afterwards appealed to the generous and philanthropic sentiments of the Parliament and People of Great Britain, towards the negroes, with a view to procure a measure opposed to the principles which govern the relations between independent nations ; a measure which the British legislature could not have sanctioned, had it been acquainted with the real facts of the case, which were completely disregarded, as will have been shewn by the analysis of the speech of the noble Lord. If any party, then, on a question of such importance, is to forfeit all title to the respect of mankind, it ought to be that, which in default of reason and justice, has recourse to violence and wrong.

His Excellency further says, "yet I do not think so ill of them, as to believe that it has arisen from any real disinclination to put an end to this traffic. I believe that they have been controlled by a domestic power stronger than themselves, . . . . and I really think that, in taking this course which I propose, we shall be doing that which will not be unbeneficial or unacceptable to some of those persons that may have appeared to be most obstinate in resisting our proposals." (2)

The persons referred to were, doubtless, those among the Portuguese Ministers, with whom the British Plenipotentiary had to treat on this subject ; and they can certainly attribute so singular a supposition only to a desire on the part of the noble Lord to aggravate his reproaches by irony.

I have already shewn, elsewhere, the mistake under which he laboured, when he asserted the existence of a faction which prevented the Government from concluding the Treaty ; it is therefore unnecessary to repeat here, what I have already stated in this respect.

(1) *The Mirror, Ibid.*

(2) *Ibid, Ibid.*

The noble Secretary of State moreover asserted, "For, in truth, Portugal has no interest in this trade. She has no colonies that require slaves for the purpose of cultivation. . . . In truth, a great portion of the ships that sail under the Portuguese flag, are the property of Spaniards, Brazilians, and others, the refuse and scum of the earth—pirates of all nations and no nations—carrying on the traffic upon the pure spirit of criminal adventure, in whose success or failure the Portuguese nation has no more interest than we, ourselves. I say, therefore, we are not doing that which Portugal will have any right to resent." (1)

This confession of Lord Palmerston, that Portugal has no interest in the Slave trade, and that the greater part of the vessels which use the Portuguese flag, do not belong to Portuguese owners, but to those of every nation, renders evident the injustice with which, in his speech, he accused Portugal of protecting the Slave Trade of all the world!

If rapacious pirates should abuse the British flag, and forge papers, in order that their vessels might pass for British, it certainly could not be said, with any shew of justice, that the British Government was responsible for the crimes committed by such pirates, contrary to the British laws.

In the same manner, no one is authorised by justice and good faith, to load the Portuguese Government with reproaches and accusations, and to attempt to render it odious, by imputing to it the crimes committed by rapacious pirates of all nations, beyond the reach of the jurisdiction of the said Government. If those pirates made use only of the Portuguese flag, the noble Lord might then have had some plausible grounds for the introduction of his measure; but the contrary was known to the British Government, at the very time when the debate took place upon the Bill, as is proved by the following expressions of Lord Minto, First Lord of the Admiralty: "It is true that a considerable number of slaves have been taken, some carrying the flag of the United States, and others under the colours of Russia. . . . It is certain, however, that, in spite of all the discountenance of the United States, and of all the exertions of this country, the flag of the United States will continue to afford an inconvenient degree of facility to the Slave Trade." (2)

Lord Palmerston also further observed, "I know it may be said that the Slave Trade may still be carried on; for that the slave-trader, when driven from one flag, will seek refuge under another. I am aware of that; but if we succeed in engaging all the flags of Christendom in the common cause, then, I would ask, to what course can the slavers resort? . . . I shall, therefore, propose a clause. . . . that a slaver, taken under such circumstances, (without flag) shall be considered as, and dealt with in the same manner as though she were an English slave-trader—provided al-

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(1) *The Mirror*, *ibid—ibid*.

(2) *Ibid*, *House of Lords*, August 1, 1839.

“ ways, that if, in the course of trial, her nationality shall be made to appear, &c. It may be objected. . . . . that this will be making war against all the world ; but I do not see how any nation can complain of such a course. If a ship abjure her country, and cast the protection of its flag to the winds, the State of which she happens to belong cannot, at least, complain that we have not respected her nationality, the existence of which had been studiously kept beyond our knowledge.” (1)

This second admission of the noble Lord is very important, by which he shews that he acknowledges—that, if the Portuguese flag has been used by the traders in preference to that of France or Spain, it is because, as he says above, that the captured vessels using it, would run less risk, on being captured, of being condemned. But the reason for this preference would have ceased from 1838, if the Treaty negotiated by me with the British Minister, had received that confirmation, which was refused by his Excellency ; whose proceedings during that negotiation, in order to be duly appreciated, requires us to have reference to circumstances, independent of those *relating* simply to the especial Treaty for the Abolition of the Slave Trade.

As to the clause contained in the said Bill, giving power to search and capture by the British ships of war, and to try before British Courts, all vessels suspected of being engaged in the Slave Trade, to whatever nation they may belong, of which the masters will not exhibit their colours, nor produce the ship’s papers, nothing would be more simple than such a proceeding, if all the Governments of Europe and America had conceded to Great Britain the right of delegating to her ships of war the police of the seas. But as such a right has not been conceded, if the master of a merchant vessel, belonging to a powerful State, (I say powerful, because those who are not so, have much to fear from the justice of the noble Lord) should refuse to produce his flag and papers to the British Commander searching his vessel ; if he should allow her to be captured and condemned, and should afterwards prove his nationality, would not the British Government be obliged to pay a heavy compensation for the losses and injury occasioned to that ship ? And if there should be speculators, being the subjects of powerful nations, who should engage in the trade on the strength of such compensations, to what an enormous sum might they not amount ? to say nothing of the serious disputes to which such proceedings might give rise between the English Government and those of other nations.

In concluding the analysis of the speech of Lord Palmerston, I would call the attention of the reader to that which I am about to relate, and which will also assist in better appreciating his conduct on this question :

In the month of April, 1838, the noble Lord stated to the British Judges of the Mixed Commission at Rio de Janeiro, “ I have

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(1) *The Mirror, House of Commons, August 8, 1839.*



“now to instruct you, that vessels owned by Brazilian subjects, or by Portuguese subjects, resident in Brazil, and which shall be found carrying slaves for sale from Africa to Brazil, may, notwithstanding that they are sailing under the Portuguese flag, be properly brought before the Court of which you are members, and may be condemned by that Court, under the Treaty of the 23rd November, 1826, between Great Britain and Brazil, for the suppression of the Slave Trade; *unless* such vessels shall have been built in a port belonging to the dominions of Portugal, or shall have borne the flag of Portugal, and no other, before the issue of the Decree of the 16th January, 1837.” (1)

In October 1838, the British judges of the Mixed Commission of Sierra Leone, wrote to the noble Lord respecting this decision, and founding their opinion on that of Lord Stowell, one of the highest legal authorities of England, they said . . . . . “it is true that *we* cannot be considered either as a Municipal or as an English Court; but the principle laid down is equally applicable to us. It is, that only by the express stipulations of a Treaty can any Court be ‘armed with authority to notice offences against the internal laws of another country.’ In this case, there is no Article in the Treaty, by which we are armed with authority to take cognizance of the build and transfer of Portuguese ships; or to deprive a vessel sailing under a Portuguese flag and pass, of her Portuguese character, solely on account of her foreign construction.”

“On the contrary, the Treaty is directly opposed to the exercise of such an authority, and declares (see Art. 6 of the instructions,) that the Portuguese or foreign construction of a vessel *shall in no wise affect* her nationality.”

“It may be urged, that this article of the Treaty is virtually abrogated by the total abolition of the Portuguese Slave Trade. We might reply, that the abolition on the part of Portugal can affect only her own subjects; and that no additional powers have accrued thereby to Great Britain, as it is certain that the Slave Trade to any extent may still be carried on by Portuguese vessels south of the Line with perfect impunity, so far as British cruisers are concerned, who enjoy at the present day no more right to seize such vessels in southern latitudes, than they did when that traffic was permitted by the Portuguese law. We might also reply, that the intention of the contracting parties, with regard to the effect which Portuguese or foreign construction should have on the nationality of a vessel, was, at any rate, positively shown in this article; and that nothing but an additional article, or equally formal stipulation, would authorise us to act in direct contradiction to a declared intention, which will not admit of question or mistake.” (2)

Here we have the British Judges themselves of the oldest of the

(1) *Class A. (Further Series)*, page 19.

(2) *Class A.—ibid* p. 21.

Mixed Commissions, confirming that which the Portuguese Government had repeatedly stated to that of Great Britain—that the decree of the 10th December 1836 gave it no right to cause the seizure of Portuguese vessels, engaged in the Slave Trade south of the Equator; that in order to do this it required the consent of the Portuguese Government, without which the British Government would commit a violation of the Treaties at present in force, as in effect is now being done.

I would further observe that the decree of the 16th January 1837, declares “that those vessels only shall be considered Portuguese, which, up to the time of publishing this decree, shall have sailed under the Portuguese flag, and those which, in the future, shall be built in the ports of Portugal, or her dominions.”

Lord Palmerston, however, referring to the provisions of that decree, ordered that “vessels are not to be considered Portuguese, although bearing the Portuguese flag, unless they have been built in a port within the Portuguese dominions, or unless they bore the Portuguese flag, and *no other*, prior to the issue of the Portuguese decree of the 16th January 1837.” (1)

Thus, by an altered and an unnecessary translation, inasmuch as the causes which are tried before the Mixed Commission of Rio de Janeiro, are conducted in the Portuguese language, (2) and by the introduction into the said translation of the words, “*and no other*,” which are not in the original, he has contrived to give a retrospective effect to the decree, which in reality it does not possess; as was well observed by the Commissioners of Sierra Leone.

In addition to what has been said, there remains to be considered the fact of the noble Lord having constituted himself the sole interpreter of the provisions of Treaties, prescribing to the Judges of the Mixed Commissions the rules by which their decisions are to be guided. I would cite, for instance, the instructions which he sent them in 1834, to adhere to the principle that, in the trial of vessels engaged in the Slave Trade, “the national character of a merchant is to be taken from the place of his residence; *and not of the place of his nativity*.” (3)

Even if such a principle were incontestible,—and the British Government had always adhered to it in its transactions with other States, it would have no right on that account, on its own authority and without the consent of the Governments interested, to issue instructions to follow it to the Mixed Commissions, without thereby committing a flagrant violation of the rights of those Governments.

(1) *Class A, (Further Series) 1837, page 33.—And Class A, (Further Series) 1838-9, page 92.*

(2) *Convention of 1817—Regulation for the Mixed Commissions, Art. II.*

(3) *Class A, (Further Series) 1838-9, page 19, 21.*

## SECTION VII.

I now proceed to offer a few observations on the speech delivered in the House of Lords by the first Lord of the Admiralty, Earl Minto, on the subject of the Bill in question.

He said "the Portuguese Government determined to send out a new Governor to the island of St. Thomé; and how do your Lordships think he was sent out? Why, in a ship equipped as a slaver! That ship was seized by one of our cruisers, and carried to Rio de Janeiro, but the Courts refused to condemn the vessel, on the ground that the ship and crew were both Portuguese." (1)

Of the facts here asserted by the noble Earl, not one ever took place. The Governor of St. Thomas, to whom he alludes, left Lisbon in the French brig, the *Rose du Tage*, chartered by the Portuguese administration, and carrying also some troops, passengers, and warlike stores. This vessel sailed for her destination at the end of April 1838, and returned from that island direct to Lisbon, where she arrived in October of the same year, bringing a cargo for account of private individuals, and a few passengers on account of the Government.

The vessel carried to Rio de Janeiro by the British cruisers, was the *Flôr de Loanda*, which the Anglo-Brazilian Mixed Commission, decided that they could not try, because she was Portuguese. It is, therefore, surprising that the first Lord of the Admiralty, the Minister of Marine of Great Britain, should assert as a fact, that which he ought to have known was not so, with a view to make accusations against the Portuguese Government!

I will here cite what the British Judges of that same Mixed Commission, wrote to Lord Palmerston under date of the 26th September, 1838, respecting the capture of the said vessel.—After stating that the owner, master, and another individual, belonging to the *Flôr de Loanda*, had been sent in irons on board the transport *Buffalo*, which had sailed for England on the 16th of the same month (2) they add, "we cannot but deeply regret the various circumstances which have occurred with regard to this vessel, since the first sentence of the Court was given on the 19th June, and which have been of a nature to do more harm to our cause, and to indispose even those most favourable to the suppression of the traffic, than any event within our recollection." (3)

On the 5th February, 1839, the said judges, writing to Lord Palmerston on the same subject of the *Flôr de Loanda*, which had been

(1) *The Mirror, ibid—House of Lords, August 1, 1839.*

(2) *Class A, 1838-9, page 188-9.*

(3) *Ibid—page 189.*

three months in the port of Rio de Janeiro, with the captured negroes on board, say "With regard to the first object, the mortality " and misery which has already attended this unhappy cargo, (Flôr de Loanda)—destitute for a long time, during the most inclement " season, not only of the necessities, but even of the decencies of " clothing—were unexampled. . . . and moreover, however atrocious " might be the crime of the individuals concerned in her, that the " conduct practised towards them, such as putting them repeatedly " in irons, &c., was not warranted by the Instructions, under which " the seizure was made, nor by the Portuguese decrees, supposing " them even to have been applicable to the *Flôr de Loanda*". . . . (1)

Such a proceeding was deserving of the severest punishment; but on the contrary, the Commander of the British cruiser, which captured the Flôr de Loanda, was promoted, and his promotion was officially communicated to the Portuguese Government. The first Lord of the British Admiralty, and the administration of which he is a member, thus rewarding conduct, to which the British judges themselves of a Mixed Commission, *had affixed the stigma of reprobation.*

The noble Earl, in his speech, entirely misrepresented also the transaction at the port of Mozambique, in which the Commander of the British brig of war *Leveret* boarded the Spanish ship *Diogenes*, anchored under shelter of the Portuguese forts, cutting and maiming all whom they met with, including several officers of the Custom House of that colony, who were on board the *Diogenes* performing the duties of their office; a proceeding which the British Government itself officially acknowledged to be irregular. Notwithstanding this, the Commander of the *Leveret* was promoted, and his promotion was communicated to the Portuguese Government.

The noble Earl, having detailed these occurrences in a manner at variance with the real facts, concluded by accusing the Portuguese Government of bad faith! The noble Earl, however, ought to know, that if there was bad faith on the part of either of the two Governments in these transactions, it cannot be attributed to that which he accused; and that any one would deem himself justified, on the authority of facts proved in a manner opposed to that adopted by the noble Earl in his narration, in turning the accusation against the administration of which the noble Earl is himself a member.

The historical notice above given of the negotiation of the Treaty, and the analysis of the speech of Lord Palmerston, will have shewn beyond possibility of doubt, that there were no grounds, nor even appearance of justice, for the acrimonious accusations preferred against the Portuguese Government by the noble Lord; who, in order to make them, did not hesitate to have recourse also to proposals which took place during the progress of the negotiation, and which had been abandoned; as is shown by the Treaty negotiated by me

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(1) *Class A. (Further Series) page 144.*



with Lord Howard de Walden, the only document in which is set forth the final demands of the Portuguese Government: it is sufficient to point out this wilful anachronism, and all the arguments founded upon it fall to the ground.

The diplomatic transaction under consideration being one of great extent and very complicated in its details, requires, in order to be properly investigated, a considerable time; more, probably, than the members of the British legislature thought necessary to give to it; bearing in mind that the spirit of philanthropy in Great Britain would cause to be received with approbation any proposition which should appear calculated to promote the amelioration of the condition of the African negro, and the abolition of the Slave Trade.

The narrative of this transaction delivered in Parliament by the Minister for Foreign Affairs, received, as was natural, every credence; it has been shown however, that, in the representation of facts, the real truth was totally disregarded. It may, therefore, be taken for granted, that if the truth had been known to that body, it would not have given its consent to a measure contrary to the laws of nations, and directed, in particular, against a country which has been for centuries the ally of Great Britain.

One voice, however, was raised in Parliament in defence of the independence of Portugal; it was that of the Great General, who, during six years, conducted the Portuguese army to victory, when it was engaged in combating for the independence of its country, and the cause of Great Britain. If that voice, which was followed by many noble peers, could not arrest the progress of the measure, it, at least, caused to be rejected the pretension, that Parliament should consider as well founded, the gratuitous assertions which Lord Palmerston had inserted in the preamble of his Bill.

Whatever may have been the motives of policy, internal or external, which determined the noble Lord to proceed in the manner he did, it is certain that he preferred taking a hostile step against Portugal, to confirming a Treaty, negotiated and concluded by the British Plenipotentiary at Lisbon; a Treaty, the stipulations of which for the suppression of the Slave Trade, were much more efficacious than those of the Convention of 1817, or than those of all the Treaties concluded between Great Britain and other powers.

He has proposed and obtained a law, that the Commander of the British Navy, who shall capture vessels under the Portuguese flag, suspected of being engaged in the Slave Trade, shall not be proceeded against in the British Courts, on the ground of having executed the orders of their Government. By this fact, the noble Lord acknowledged that, in conformity to the Treaties between Portugal and Great Britain, the said Commanders, notwithstanding the orders of the Government, might be proceeded against in those Courts for offending against the laws in force—that is, against the existing Treaties.

If those Commanders were liable to be condemned, even in the case of their executing the orders of their Government, it was because that Government had no right to authorize them to make captures, except to the north of the Equator, and in conformity with the Convention of 1817: and as several vessels, bearing the Portuguese flag, had been captured south of the Equator by the British cruisers, acting under the authority of their Government, previous to the introduction of the Bill by the latter, it follows that for such a flagrant violation of existing Treaties, it was requisite for the noble Lord to obtain from Parliament an *Act of Indemnity*. By indirect means he has obtained this Act; which, though it may suffice to shield the responsibility of the noble Lord before the laws of England, which he had infringed, has no power whatever to absolve him from the infractions of Treaties made with foreign powers.

If the noble Secretary of State did not require an act of indemnity, where was the use of a law authorising British cruisers to capture vessels with Portuguese flags south of the Equator, when they had already done so in many instances under the authority of the Government? And it was subsequent to such proceedings, that Lord Palmerston accused Portugal of a violation of Treaties; when it is against himself alone that the accusation ought to be preferred.—A singular situation for a Statesman to place himself in, who, from the high office he fills, is so conspicuous among civilized nations!

He, however, shewed himself conscious of the injustice of his case, by adopting premises, as the basis of his accusations, of the incorrectness of which he could not be ignorant—by not mentioning in the debate the fact, that a Treaty for the suppression of the Slave Trade had been negotiated by the Portuguese Government with the British Plenipotentiary, concealing that he (the noble Lord) did not ratify that Treaty, although the Portuguese Government had always been ready to sign it, notwithstanding various acts done by order of the noble Lord, which appeared as if intended to break off the negotiation—and by employing in Parliament the most bitter language against the Portuguese Government, when he ought to have known that, in spite of serious difficulties, that Government, of late years, by a series of Acts now in execution, had proceeded with unremitted exertions in the suppression of that traffic.

And can this proceeding on the part of the Minister of so powerful and enlightened a nation, against a country which he knows that he can injure without exposing himself to danger, be ever deemed an act of necessary energy or of magnanimous resolution?

There might, perhaps, be some excuse for the unjust partiality of the measure of the noble Lord, if there were any chance of its being effectual for the suppression of the Slave Trade; but this will not be the case, seeing the facility with which it may be evaded in the manner already pointed out to the noble Lord, in 1838, by the British Judges of the Mixed Commission of Sierra Leone, who said, “Driven from the shelter which has latterly been afforded by the

“colours of Portugal, the slave-dealers of all nations are now invoking the protection of the flag of the United States.” (1)

And will the noble Lord, on this account, cause orders to be issued to the British cruisers to seize all vessels suspected of engaging in the Slave Trade, without regard to the flag under which they may sail—whether, for example, it be that of Russia, of the United States, or of Austria? Will he give orders for the captured vessels, with their crews and cargo found on board, to be tried and condemned by the Courts of the British Admiralty?

If the noble Lord, from this measure of legislation (or rather of subversion of the fundamental principle of the independence of nations, and which, for this cause, has been reprobated by all who have given it their impartial consideration) could not expect any result favourable to the *ostensible object* which he had in view, there must have been some other motive which actuated him in this proceeding.

Time will reveal whether this is to be sought in the irritation of an angry temper, or if it is the result of a cool calculation, which sought for pretexts of accusation against the Portuguese government, in order to make them the foundation on which to commence the developement of premeditated designs, intended to be realized at the expence of Portugal.

It will be well to bear in mind, that the British Judges of the Mixed Commission of Sierra Leone, in a report received by Lord Palmerston in June 1839,—that is, a short time before he brought in his Bill—proposed, as a measure calculated to diminish the Slave Trade, *and to promote the commerce of Great Britain*, the immediate occupation, by British forces, of the Portuguese Colonies north of the Equator; viz. *Bissáo, Cacheo, the Islands of Cape Verd, St. Thomás, and Prince Island*; pointing out also the manner in which the Government might, for an indefinite time, retain possession of the said Colonies, and how to carry this act of usurpation into effect, without appearing to be actuated therein by motives of interest or ambition.

When writing this, these Judges were aware, as was seen above, that the Portuguese Government, by the decree of the 16th January, 1837, had prohibited the transfer of the Portuguese flag to vessels of foreign construction, which, till then, had been permitted by the law, on the vessel becoming the property of Portuguese. They could not have been ignorant that one of the Judges of the Mixed Commission at the Havannah had written to Lord Palmerston in July 1838, that “with regard to the use of the Portuguese flag, it is said that most of the vessels either have no papers at all, or that the papers are forged. . . . and the papers which it has been said were to be procured at the Cape de Verd Islands for a few dol-

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(1) *Class A, (Further Series) General, page 153.*

"lars, were no doubt counterfeits;" (1) nor, that, in consequence of the Decree of the 10th Dec. 1836, several vessels had been captured at those Islands, under suspicion of being engaged in the Slave Trade; as, for instance, the Schooners *Ether*, *Roberta*, *Constituição*, *Fanny Butter*, *Terrivel*, and the Brigs, *D. Pedro* and *Camões*; some of them being condemned, even on the spot. (2)

The said Judges ought to have known that the Slave Trade is not carried on at the Islands of St. Thomas and Prince; nor could it be, without the consent of the British cruisers—because in those Islands, there are almost always some of the cruisers belonging to the fleet stationed in the Gulf of Benin.

Those Judges, who in the same report tell Lord Palmerston, that of the vessels condemned by the Mixed Commission in 1838, *more than one half* were engaged in the traffic in the immediate neighbourhood of *Sierra Leone*, do not propose the occupation by British forces of the River Pongo, nor of the Gallinas, nor of other Ports, which are within a few hours' sail of that Colony, and in which the Slave Trade has, for many years, been carried on with the greatest activity, (3) and where, it is said, some of the slaves liberated by the Mixed Commission, have sometimes been sold again, and embarked for America; but they propose the occupation of the Portuguese Islands, some of which are forty days' sail from *Sierra Leone*; and they make this proposition in the same report, in which they state that "it is a remarkable fact, that *every one* of the thirty vessels " which have been adjudicated, professed to be Portuguese. . . . . " To four of them, however, (the *Deixa Fallar*, *Gratidão*, *Camões*, and "*Veloz*,) a Brazilian character was clearly attached, and the remaining twenty-six were undoubtedly Spanish." (4)

If it were possible that the suggestion of the Judges of *Sierra Leone* could merit the attention of the British Government—if this latter could believe that, with a view to put an end to the Slave Trade, it ought to occupy the countries where it is carried on, or where the said Government imagines it to be carried on, it would be in the countries which import the slaves that the occupation would be of any use; because, by closing the markets into which they are imported, the exportation would cease from Africa, where it will be sure to continue so long as there shall be importers: and in that case, the British forces ought to occupy the whole coast of Brazil, of Cuba, Porto Rico, and Texas, and also one of the United States of America, viz. Louisiana—for, according to the papers laid before Parliament, (5) slaves are imported there from Africa, *via* Texas, and sold in the markets at from 800 to 1000 dollars each.

(1) *Class A*, page 115.

(2) *Dispatch of the Governor General of Cape Verd.*

(3) *Class A. (Further Series)* page 151.

(4) *Ibid.*

(5) *Report from the Select Committee on the Disposal of Land in the British Colonies—1836*, page 171.



Notwithstanding the proposition of those Judges, and their affirmation "that all the efforts made to this time to put a stop to the " trade, have proved fruitless," it cannot be believed that their suggestion could be admitted by the British Government, nor that the latter covets the Colonial possessions which yet belong to the crown of her most faithful Majesty; which are monuments of the perseverance of the Kings of Portugal, and of the exploits of those Captains who opened to Europe the navigation of Africa and Asia, by which the British nation has profited more than any other, and for this reason ought, more than any other, to respect that country which opened to her so vast a field a prosperity.

The occupation of any of the Portuguese territories by order of the British Government, would, of itself, create a new and powerful impediment to the formation of Treaties for the suppression of the Slave Trade with those powers with whom none as yet existed; for they would reflect that that Government, commencing by obtaining from Portugal, in 1810, a promise of co-operation for the abolition of the Slave Trade, and having, in 1817, obtained the right of searching Portuguese vessels by its cruisers, these have committed with impunity many violent acts against the Colonies of Portugal, and against Portuguese subjects and their property; that in 1839, it usurped the right of legislating for Portuguese subjects, under a pretext afforded by arbitrary interpretations of Treaties, at the same time making the most odious and gratuitous charges against Portugal, pursuing her shipping in a hostile manner, and dragging Portuguese subjects and their property to be judged before its own Courts; and that at length it usurped the very territories belonging to Portugal. The proceeding, therefore, of Lord Palmerston, cannot fail to fill with apprehension and distrust, those Governments, with whom he may have to negotiate on this subject.

In concluding this work, I cannot refrain from referring to the circular note, addressed by Lord Palmerston, on the 30th September last, to the ministers at the Court of St. James's, of the Powers who were parties to the Treaty of the Congress of Vienna in 1815, respecting the negociations of Great Britain with Portugal, relative to the Treaty for the suppression of the Slave Trade, in which note the noble Lord asserts that the Portuguese Government in those negociations acted *with deliberate bad faith, and in continual violation of Treaties*; and that the complaints which it had made against the Government of Great Britain were entirely false and destitute of foundation.

Without pretending to express any opinion on the novel introduction into diplomatic communications of the terms and phrases made use of by the noble Lord—without staying to inquire if the use of such language is an indication or not that his mind was in that state of composure which was essential to forming an impartial judgment in an affair of such importance—without even discussing whether the noble Lord, after having made such unjust accusations

against the Portuguese Government, is the most proper statesman to be judge in a cause where he has to decide on his own conduct ; I invite the reader, in face of the proofs which support the history of the negociation and the analysis of Lord Palmerston's speech, to apply his last assertions, word by word, to that party whom he shall deem deserving of them ; whether to the Portuguese Government, or to the noble Lord by whom they were uttered.

## CONCLUSION.

The gratuitous and heavy accusations made in the British Parliament by Lord Palmerston against the Portuguese Government, and which refer especially to the time during which I was a member of that Government, rendered it incumbent upon me to reply to them, stating the facts exactly as they occurred.

The reader will have found in this work, a sketch of the history of the Abolition of the Slave Trade ; and will have remarked that a King of Portugal was the first sovereign to abolish it in certain of his Colonies. He will also have been able to appreciate the reasons which induce me to regard as inefficacious, the system at present adopted for the suppression of the trade, and that which I consider alone calculated to effect its extinction.

The reader will likewise have seen, that with regard to a proposed Treaty for the abolition of the trade, presented on the part of the British Government to that of Portugal, on the *15th April* 1838, the respective Plenipotentiaries had concluded a Treaty on the *22nd of May following* ; and that as regards the Article which was intended to be additional to the said Treaty, the arrangement of which had not been determined, the Portuguese Government subsequently offered so leave it to future negociation.

He will also have recognised that Lord Palmerston, setting aside the terminated negociation, ordered to be presented to the Portuguese Government, on the first August of the same year, the draft of a Treaty, containing conditions exceedingly oppressive to the interests of Portugal, declaring at the same time, that the Government of Great Britain admitted of no alteration in the Treaty, or delay in the signature : and that the Portuguese Government (as bound by its duty) not acceding to such a requirement, still offered to sign the Treaty which had been agreed upon. From whence it follows, that all that was asserted by the noble Lord on the assumption that Portugal had refused to conclude the Treaty, is totally destitute of truth, as are, for the same reason, nearly all the arguments on which he founded his Bill.

In the analysis of these arguments, he will have seen demonstrated, in contradiction of what the noble Lord asserted ;

1st. That Portugal has fulfilled the stipulations entered into with

England relative to the suppression of the Slave Trade.

2nd. That Portugal never received any sum as the price of the future total abolition of the trade, as asserted by Lord Palmerston.

3rd. That the assertion is as iniquitous as it is gratuitous, that the Portuguese Government had been influenced by the slave traders.

4th. That the Portuguese flag is not the only one, under which, in latter times, the traffic has been carried on, as is proved by facts.

5th. That Portugal has not increased the traffic, inasmuch as enormous British capitals are embarked therein.

6th. That as the Bill can be productive of but little effect in promoting the ostensible object for which it was proposed, as is also shewn by the confession of Lord Palmerston himself, its consequences, immediate or eventual, may become very serious, both by the provisions which it contains, and by the new principle adopted by the British Government, of legislating for countries independent of that Crown.

7th. That the injurious accusation preferred by Lord Palmerston, that Portugal had made assertions *destitute of truth*, is totally devoid of foundation; and that the noble Lord was incorrect, in what he said of Portugal, respecting the right of search, the Mixed Commissions, and of the Slave Trade being declared piracy.

8th. That the Bill authorizes acts of piracy; and goes to found a monopoly of the labour of the liberated negroes in favour of the British Colonies.

9th. That nothing can exceed the injustice and offensiveness of the supposition of Lord Palmerston, that Portugal had in view the future re-establishment of the traffic, in not consenting to make the Treaty perpetual; which had not been consented to in the Treaties with France and other powers.

10th. That since Portugal was prepared to conclude the Treaty, the British Government had no necessity for the Bill.

11th. That if either of the Governments in this negociation had forfeited its title to the esteem of mankind, it was that which preferred measures of violence to those of conciliation.

12th. The reader will also have seen, by the arguments of the British Judges themselves of a Mixed Commission, that Lord Palmerston, relying on an *altered* translation of a Portuguese decree, had committed infractions of existing Treaties between Portugal and Great Britain, for which he required (at least in the eye of the English law) a bill of *Indemnity*; which, in effect, he indirectly obtained by his own bill.

The reader will see also that the two accusations made against the Portuguese Government by the First Lord of the Admiralty, were both destitute of justice, being based on facts which never occurred; he will also see, that for acts committed by the British cruisers, in contravention of Treaties, and which had called forth the severe censure of the British Judges of a Mixed Commission, he promoted the

very individuals by whom they were perpetrated ; and he will also find recorded in this work some of the numerous examples of acts of violence and cupidity committed by other English cruisers.

It follows, therefore, from what has been said, that the accusations against Portugal, made by Lord Palmerston in acrimonious and insulting language, on the occasion of the debate on his bill, (which was in itself an uncalled-for violation of the rights of nations) were totally devoid of reason and justice ; and that those accusations can only be regarded as pretexts, created by the noble Lord, for objects foreign to the suppression of the Slave Trade—objects which cannot but be considered injurious to Portugal ; since, in order to attain what is just and upright, there is no occasion to seek for violent and unjust means.

It must, therefore, create the greatest surprise that a Government so illustrious as that of Great Britain, by the act of legislating for a foreign and independent nation, should afford to the greater powers, who are supposed to aim at aggrandizing themselves, an example which may stimulate them, and which they may appeal to and follow, in also dictating laws to neighbouring and less powerful States ; that act thus leading to the breaking up of the system of the equilibrium of Europe, by which each State is restrained within its respective limits, and consequently placing in peril some of the most important interests of Great Britain herself ; and that the example afforded by her government may be imitated by others, is proved by what has recently occurred in Central Asia—where, since the march of an English army, a Russian army has also been dispatched.

*Lisbon, December, 1839.*

#### ERRATA.

Page 7, line 11—For thousands, *read* millions.

————— 42—For enjoyed, *read* employed.

Page 10, line 4—For south, *read* north.

————— 12—For the month, *read* that month.

————— 27—For their annexes, *read* three annexes.

N.B. Page 35, line 5 and 11—*drawing up*—the English language has no parallel term which, in one word, will express the meaning of the Portuguese word *redacção*—the nearest are correction, revision, or settlement of terms, in order to avoid ambiguity, misinterpretation, &c.

FINIS.





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